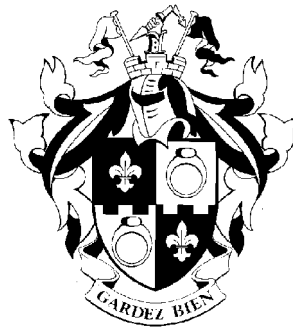


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# **ADDRESSING THE IMPACTS OF PRIVATE INSTITUTIONAL FACILITIES IN THE RDT, RURAL, RURAL CLUSTER, RE-2, AND RE-1 ZONES**



**PRIVATE INSTITUTIONAL FACILITIES (PIF) WORKING GROUP**

JUNE 27, 2005

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## **Acknowledgements**

The Working Group would like to thank all of the groups and individuals that took time to discuss (either in person or in writing) the issues addressed in this report. While these groups and individuals may or may not agree with each of the report's recommendations, their comments were an important part of the process and helped the Working Group identify and put issues into context.

The Working Group would also like to thank Katherine Nelson, Planner Coordinator, Environmental Planning Unit, of the Maryland-National Park and Planning Commission for her assistance to the Working Group with data and maps.

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## **Executive Summary**

### Background

On January 20, 2005 the Transportation and Environment Committee asked Council staff to form an interagency Working Group to review the environmental impacts of Private Institutional Facilities (PIFs) in the RDT (Rural Density Transfer), Rural, Rural Cluster, RE-2, and RE-1 zones and provide recommendations that would balance the needs of PIFs with the County's interest in avoiding and/or minimizing environmental impacts of PIF uses in these zones.

Private Institutional Facilities (PIFs) are defined in the Comprehensive Water Supply and Sewerage Systems Plan (Water and Sewer Plan) as "buildings constructed for an organization which qualifies for a federal tax exemption under the provisions of Section 501 of Title 26 of the United States Code (Internal Revenue Service)." Common categories of PIF uses are: places of worship, private schools, senior housing and day care centers.

The issue of PIFs locating or expanding in low-density zones has come up at the County Council repeatedly in recent years during the Council's review of water and sewer category change requests. Further, within the past few years several PIF water and sewer requests involved properties in the Rural Density Transfer (RDT) zone.

The Working Group met 4 times (the first meeting was on February 25, 2005) and held a public forum on April 13 to solicit comments from interested groups and individuals.

### Working Group Scope

As noted above, the Working Group's focus has been on how best to address the environmental impacts of PIFs in certain zones. However, it became clear to the Working Group early on that the group's scope needed to be broadened somewhat in order to better address the PIF issue.

For instance, the possible negative impacts of PIF uses on agriculture in the RDT zone and any possible changes that could affect agricultural uses were raised by the Planning Board as part of the transmittal of its zoning text amendment that would put in place impervious area caps in the RDT and other zones. Agricultural issues also came up both within the Working Group discussions and in the public forum and subsequent correspondence.

In addition, as the PIF Working Group heard at the April 13 public forum and in subsequent written correspondence, the community impacts of large PIF uses are of great concern to people living near these PIFs. While the Working Group was formed to focus on environmental impacts, the Working Group did consider how various options under consideration might affect issues of concern to the community. A more detailed review of community issues (which was beyond the scope and capacity of the Working Group) is needed.

## Recommendations

The PIF Working Group believes that PIF uses in the zones in question raise significant environmental concerns, especially in cases where multiple large PIF uses may be clustered in a single drainage area or where PIF uses expand dramatically on existing properties. Changes are needed to better balance the public benefits of the services provided by PIFs with the environmental, agricultural (in the case of the RDT zone), and community impacts that may result.

The PIF Working Group recognizes that this report represents the beginning of a review process rather than the end. Several of the recommendations would require changes to the County's Ten-Year Comprehensive Water Supply and Sewerage Systems Plan and/or passage of a zoning text amendment. If the Council chooses to formally consider these recommendations, specific language for these changes will have to be drafted. Issues will likely be identified during this drafting process that were not taken up by the Working Group.

The Council's review process will provide opportunities for interested groups and individuals to provide input to the Council and will allow for refinements or changes to the Working Group's recommendations as the various policy issues involved are debated and reviewed.

The Working Group's recommendations reflect consensus among the participants. In some cases, one or more participants may have preferred other or additional alternatives but accept the recommendations as the consensus of the group.

It is also important to note that the Working Group recommendations do not necessarily reflect the official position of any of the departments or agencies of the Working Group participants. The recommendations of the Working Group represent the opinions and conclusions of the individuals

### **Recommendation #1:**

**Revise the Water and Sewer Plan to prohibit sewer hookups and extensions within the RDT zone to serve PIF uses, except in cases of failed septic systems. If approved, this recommendation would mean:**

- **Sewer extensions into the RDT zone to accommodate PIFs would be prohibited.**
- **Single hookups from existing mains (currently allowed under the abutting mains policy) to serve PIFs would also be prohibited.**

### **Recommendation #2:**

**The Department of Environmental Protection and Department of Permitting Services should review the Water and Sewer Plan requirements with regard to multi-use sewerage systems (individual, on site sewerage systems with 1500 or more gallons per day peak capacity) and recommend any changes needed to ensure that multi-use**

systems are properly planned, built, and maintained and do not adversely affect the environment or public health.

**Recommendation #3:**

**Approve a Zoning Text Amendment to:**

- a. **Add impervious area caps in various zones as originally proposed by M-NCPPC staff that would affect new development and expansions of existing development:**
  - i. **15% in the RDT zone (with agricultural uses exempt)**
  - ii. **20% in the Rural, RC, RE-2, and RE-1 zones**
- b. **Grandfather existing developments that exceed these caps, although future expansions would be subject to the cap.**

**Recommendation #4:**

**Future Master Plan revisions should identify areas where PIFs are encouraged and/or discouraged and whether water/sewer should be provided to serve these uses.**

## **I. Background**

The County's Comprehensive Ten Year Water Supply and Sewerage Systems Plan (also known as the Water and Sewer Plan) includes a special policy whereby the Council may approve the extension of public water and sewer service to non-profit institutions (referred to in the policy as Private Institutional Facilities or PIFs) in areas that are not otherwise eligible for public service.

During a review of the Water and Sewer Plan in the fall of 2003, the Montgomery County Planning Board requested that the "PIF" policy be modified in order to reduce the potential negative environmental impacts of institutional projects that are approved for public water and/or sewer service via the PIF policy. The Board's concerns were centered on the following:

- 1) The potential negative environmental effects of the development density and impervious surfaces associated with PIF projects which are generally well in excess of those associated with other allowed uses within the RDT, Rural, RC, RE-2, and RE-1 zones; and
- 2) The loss of large tracts of land in the County's valuable Agricultural Reserve (RDT Zone) to uses other than agriculture.

In response to the Planning Board request, the County Council asked the Board to suggest changes to the Montgomery County Zoning Ordinance to address the problems raised. The Council, in its consideration of several recent PIF category change requests, had raised concerns similar to those raised by the Planning Board. M-NCPPC staff subsequently developed, and the Board approved, a zoning text amendment affecting all development in RE-1, RE-2, Rural, Rural Cluster and the RDT zones by limiting the allowed impervious surface on a site to a percentage of the total site area. The Board transmitted the zoning text amendment to the County Council in April 2004. The transmittal is included in Appendix I. It was introduced by the Council in December 2004.

On January 20, 2005 the Council's Transportation and Environment (T&E) Committee asked Council staff to form an interagency Working Group to review the Private Institutional Facilities (PIF) issue with regard to its impact on large lot zones and provide recommendations for changes that would balance the needs of PIFs with the County's interest in avoiding and/or minimizing environmental impacts of PIF uses in these zones.

The Working Group first met on February 25 and held a public forum on April 13 to solicit comments from interested groups and individuals. Testimony and additional correspondence is included in Appendix IV.

This report includes background information as well as a discussion of the alternatives and recommendations that reflect what the Working Group unanimously believes should be implemented by the Council.

## **II. Working Group Scope and Goals**

### Scope

The Working Group's focus has been on how best to address the environmental impacts of PIFs in certain zones. However, it became clear to the Working Group early on that the group's scope needed to include other issues in order to better address the PIF issue.

For instance, the possible negative impacts of PIF uses on agriculture in the RDT zone and any possible changes that could affect agricultural uses were raised by the Planning Board as part of the transmittal of its zoning text amendment that would put in place impervious area caps in the RDT and other zones. Agricultural issues also came up both within the Working Group discussions and in the public forum and subsequent correspondence.

According to agricultural assessment records, land dedicated to agricultural use has declined from 128,000 acres in 1980 to 82,350 acres (a drop of nearly 36%) in 2004. While there are many reasons for this decline, any County policies that could exacerbate this trend are of concern to the agricultural community.

In addition, as the PIF Working Group heard at the April 13 public forum and in subsequent written correspondence, the community impacts of large PIF uses are of great concern to people living near these PIFs. While the Working Group was formed to focus on environmental impacts, the Working Group did consider how various options under consideration might affect issues of concern to the community. A more detailed review of community issues (which was beyond the scope and capacity of the Working Group) is needed.

### Recommendation Criteria

Based on the Working Group's scope described above, the Working Group established a number of recommendation criteria that would guide the group in its review of various options:

- Avoid or minimize negative environmental impacts (both in the short-term and in the long-term) of new and/or expanded PIF uses within the RDT, Rural, RC, RE-2, and RE-1 zones.
- Support working agriculture (in the RDT zone) and rural character of these areas.
- Provide predictability in the process for PIF applicants and other interested parties.



- Ensure a fair process that is transparent to land owners, neighbors and potential land purchasers.
- Sufficiently target any proposed changes so as to minimize unintended consequences on other individuals, groups, or institutions.
- Make recommendations that are administratively feasible to implement.

### **III. Public Comment**

On April 13, 2005 the Working Group held a public forum and received oral and written testimony from a variety of groups and individuals with varying opinions on the issue. Correspondence has also been received subsequent to the forum. The public forum testimony and much of the written material received is attached in Appendix IV.

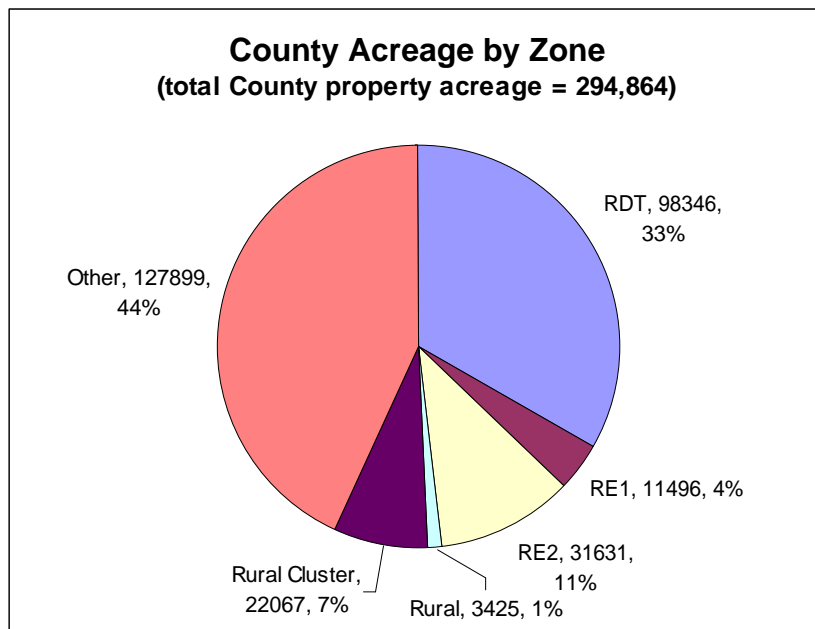
Some of the major recurring themes expressed by individuals and groups (both at the forum and in subsequent correspondence) are noted below.

- **Economic and Demographic Issues**
  - The County has a shortage of places of worship as population has grown.
  - Land is so expensive that the only viable approach for many institutions wishing to locate or to expand within the County is to move to outlying rural areas in the County where large enough tracts of land are available and affordable.
  - Religious institutions provide an array of important services to both members of their own organizations and to the public at large and are a critical component of the fabric of the community.
  - The number of institutions seeking to locate in rural zones is small compared to the overall acreage contained in these zones.
  - These institutions tend to cluster in certain areas of the County which are zoned for low density but which could be feasibly served by public sewer.
- **Environmental Impacts**
  - The higher imperviousness levels of PIFs in the RDT and other zones run counter to the intent of these zones and specifically the goals behind the creation of the Agricultural Reserve.
  - Studies show that water quality within a given watershed or sub watershed begins to decline at imperviousness levels of 8%.
- **Incompatibility with and Loss of Agricultural Uses**
  - Large PIF uses permanently remove areas intended to remain agricultural.
- **Community Impacts**
  - Large PIF uses are incompatible (traffic volumes and intensity of land use, for instance) and out of scale with the surrounding areas in the RDT and other zones.

## IV. Zoning Information

The specific zones at issue in the original zoning text amendment proposed by Park and Planning were: RDT (Rural Development Transfer, 1 unit per 25 acres), Rural (1 unit per 5 acres), RC (Rural Cluster, 1 unit per 5 acres), RE2 (Single-Family Residential, 1 unit per 87,120 square feet), and RE1 (Single-Family Residential, 1 unit per 40,000 square feet). The Working Group chose to focus on these same zones.

Total County acreage equals 317,120 acres, of which 294,864 acres comprise the file of all parcels of land in the county. The 294,864 acres does not include bodies of water and transportation right of ways dedicated to public use. The zones under review by the Working Group consisted of approximately 56% of this total acreage. The largest single zoned area is the RDT zone, which makes up 33% of the acreage. The following chart presents the County's land area with the zones under review broken out. The "other" category includes all portions of the County not otherwise within these zones.



Of the zones under review, there are still approximately 170 properties of 20 acres or greater encompassing a total of over 12,000 acres that are within 4000 feet of sewer lines and could be part of future requests for PIF development on sewer. These and other properties could also be subject to PIF development on large septic systems.

Therefore, any changes affecting these zones will substantially affect

development potential within Montgomery County of PIFs or perhaps other uses, depending on the changes made.

## **V. Current Regulatory Processes Related to PIFs**

Under current development approval requirements, new developments go through a series of review processes. Many of these processes apply to new private institutional facilities as well. These are summarized below in approximate chronological order. For on-site expansions or changes in current uses, the review processes involved will depend on the specifics of the issue.

### Consistent with Applicable Zoning

A proposed land use must be consistent with existing zoning.

Although private institutional facilities are defined in the Ten Year Water and Sewer Plan, there is not a single definition for them in the zoning ordinance. Some uses in rural and agricultural zones require special exceptions. A place of worship is a permitted use in all zones in the County. There are many uses considered ancillary to a house of worship (religious schools and day care for example). These ancillary uses are also permitted.

### Water and Sewer Plan Amendment

For PIFs seeking to develop on public water and/or sewer, an amendment to the County's Water and Sewer Plan is required unless the property is already in the correct service area categories for public service (W-1 or W-3 and S-1 or S-3). In general, water or sewer service is not assumed to be provided to the zones under discussion (RDT, Rural, Rural Cluster, RE-2, and RE-1). Properties in these zones are generally designated as categories W-6 and S-6, indicating no planned public service within the ten-year scope of the Water and Sewer Plan. However, the PIF policy provides an opportunity for PIFs to be eligible for service. Other Water and Sewer Plan policies, such as the abutting mains policy and health hazard situations, may also permit service to be provided under limited circumstances.

For PIFs seeking to develop using individual on-site on systems (usually wells and septic systems), all wells and septic systems are permitted by the State of Maryland through the County's Department of Permitting Services. The State requires that systems with a peak capacity of 5,000 or more gallons per day be designated as "multi-use systems" and approved in the County's Water and Sewer Plan. In addition, Montgomery County requires the multi-use designation for systems with capacities of 1,500 or more gallons per day. This designation requires amendments to both the Plan's category maps and text.

The Maryland Department of the Environment reviews all amendments to the County's Water and Sewer Plan and may approve or disapprove these actions.

### Subdivision Approval

If the property is not a recorded lot, a preliminary plan of subdivision and a record plat will be required. There is an adequate public facilities requirement for the amount and type of

development requested. The land must either be in an area planned for future public sewer service or approved for an on-site system (usually a septic system) to pass the sewer aspect of this test.

As traffic is measured in the weekday peak hour, few PIFs have problems passing the test for transportation adequacy. Access to the site would be established at the time of subdivision. Unless the project is in a special protection area or the Patuxent Watershed, there is no maximum impervious surface limit to the approval. Compliance with the Planning Board's environmental guideline would be expected. Appropriate environmental conservation areas would be established if necessary. The exact location of buildings is not required at the time of subdivision but is useful to get the best stormwater management concept.

#### Forestation Conservation Ordinance Requirements

Before a subdivision is approved, a property must submit a forest conservation plan for approval. This would designate a minimum on-site forest retention area of at least 20%. If no forests are present, it would be expected that trees would be planted on site. It would not be expected that forest conservation would be a constraint to site development.

Forest conservation plans may also be required for proposed land disturbances of 5,000 square feet or more on lots or parcels which do not have to go through the subdivision process and exceed 40,000 square feet in size. The forest conservation plan must be approved by Planning Board staff prior to issuance of a sediment control permit by the Department of Permitting Services.

#### Stormwater Management Requirements

Development activities typically reduce the amount of infiltration of rainfall into the soil and increase the amount of runoff leaving the site. This results in less groundwater, which is crucial for maintaining springs, wetland, and base flow of streams. It also results in a greater pollution load in streams and the erosion of stream channels. Stormwater management plans must meet design standards developed by the State of Maryland. These include structural and nonstructural practices for the recharge of groundwater, for the removal of pollutants from runoff from the site, and to control quantities of runoff to minimize stream channel erosion. Please see Section VII of this report for a discussion of the effectiveness of these practices.

In the development process stormwater management concept plans must be approved prior to approval of a preliminary plan or site plan by the Planning Board or prior issuance of a sediment control permit when a preliminary or site plan is not required. Detailed stormwater management design and construction requirements are made part of the sediment control permit for the site.

#### Building Permit

Building construction must be in compliance with established building codes (structural, architectural, mechanical, and electrical) . As applicable, the building permit process also includes reviews to insure the construction is compliance with zoning codes and approved

preliminary and subdivision plans, Land development permits for sediment control, well construction, and septic systems must be issued prior to building permit issuance.

### Sediment Control Permit

In addition to stormwater management requirements, sediment control permits also include structural and nonstructural practices to limit and control sediment generated by grading and other land disturbing activities. Bare and freshly graded soil is very erodible. Without proper treatment and stabilization, runoff from the site carries this sediment into local streams and waterways.

## **VI. The Water and Sewer Plan and the PIF Policy**

### Comprehensive Water Supply and Sewerage Systems Plan (Water and Sewer Plan) Background

The function of the Water and Sewer Plan is to ensure the adequate provision water supply and wastewater disposal to meet the County's existing and planned needs in a logical, cost-effective, and environmentally-conscious manner. As noted in the 2003 – 2012 Ten-Year Comprehensive Water Supply and Sewerage Systems Plan text, the purpose of the plan is to:

“...provide an overview of the planning policies, needs, issues and planned infrastructure related to community and individual water and sewerage systems, public health, environmental protection and land-use issues in Montgomery County. It is intended to provide both background information and a planning basis for the evaluation of water supply and sewerage system needs in the County.”

As required by State law, the County Executive prepares and the County Council approves comprehensive updates to the plan every three years. In addition, the Council may approve amendments to the plan (text amendments or category change requests for a property or a group of properties) at any time. The Maryland Department of the Environment may approve or disapprove Council updates and amendments. Under the County Executive, the Plan is administered by the Department of Environmental Protection.

### Private Institutional Facilities (PIF) Policy

The Water and Sewer Plan includes both general policies and specific policies for the provision of public water and sewer service. The PIF policy is a specific policy that can supersede other general service policies in the Water and Sewer Plan. Actions taken under the PIF Policy may also conflict with area Master Plans. A current area of contention between Montgomery County and the Maryland Department of the Environment is the discretion the Council has to approve or disapprove category change requests (including PIF requests) that may be inconsistent with area Master Plans.

The Private Institutional Facilities (PIF) policy, as it now establishes the Council's authority for addressing PIFs, first came into being in 1996. The policy was developed in reaction to concerns by Councilmembers that there were no formal guidelines or requirements regarding the approval of requests by private institutional facilities for water and/or sewer service in areas not otherwise assumed to eligible for public service. A discussion of the PIF policy's evolution is included in Appendix 1.

PIFs are defined in the Water and Sewer Plan as “buildings constructed for an organization which qualifies for a federal tax exemption under the provisions of Section 501 of Title 26 of the United States Code (Internal Revenue Service).” Historically, most PIF cases have involved religious institutions, but other PIF uses which have required category change

requests are private schools, day care centers, university facilities, hospices, cemeteries and museums.

As a policy that provides the potential for approval of service inconsistent with area Master Plans, the PIF policy has been controversial throughout much of its history. However, it is important to note that the policy itself was developed to provide a level of guidance for PIF applicants, the public, County agencies, and the Council itself for requests that previously came to the Council without such guidelines.

The policy put in place minimum standards that must be met in order for a PIF to be considered eligible for public service. As is assumed today, the Council considers each request on a case-by-case basis. Although the Council has ultimately approved the great majority of PIF requests, Department of Environmental Protection (DEP) staff who administer the Water and Sewer Plan believe the PIF policy has served a valuable role as a gatekeeper, keeping some unsuitable requests from being filed and coming to the Council.

Appendix 1 includes a list of category change actions under the PIF policy. Since 1996, there have been 67 category change requests that have come before the Council involving PIF uses. Several other requests are pending. Many of the properties associated with these actions were zoned RE-2, RC, and RDT. Of the 67 requests, 43 were considered under the PIF policy. Several recent requests were deferred by the Council pending this Working Group report.

The current PIF policy includes the following requirements:

- Defines PIFs as organizations which qualify for federal tax exemption (under IRS rules).
- PIFs locating within the water and sewer envelope may be approved administratively (by DEP).
- For PIFs locating outside the water and sewer envelope, Council consideration is required:
  - Sites abutting a main: eligible for public service only within the PIF policy.
  - Sites requiring extensions
    - For existing PIF uses: Public service may be approved only if the extension does not open up undeveloped land to development contrary to the relevant local area master plan.
    - For new (or relocating) PIF uses: Public service may be approved only if the extension will abut only properties which are otherwise eligible for community service.
  - Main extensions shall be designated “Limited Access.” Exceptions may be made to limited access designation to serve properties with failed septic systems or other PIF uses.
  - The applicant must construct and pay for the main extensions and pump systems required.



- Public service for PIFs will not be approved if a WSSC-owned and operated pumping station would be required to provide service, which would serve only PIF uses.

The current PIF policy does not address cases where PIFs develop using on-site wells and septic systems. However, these cases may also require Water and Sewer Plan amendments for large-capacity or “multi-use” water and sewerage systems, as discussed in Section V of this report.

### Other Maryland Jurisdictions

Five Maryland jurisdictions were surveyed to see how they addressed institutional uses in water and sewer planning. The jurisdictions surveyed were:

- Baltimore County
- Frederick County
- Harford County
- Howard County
- Prince George’s County

The full list of questions and responses is included in Appendix III. In summary,

- All of the jurisdictions had similar water and sewer plan review processes to Montgomery County’s. Most had administrative ways to handle non-controversial requests (especially for properties located within existing service areas).
- All of the jurisdictions surveyed, except Frederick County, have a Countywide service envelope that is the primary determinant as to whether a property is eligible for public service. Frederick County has multiple service areas addressing incorporated towns and some unincorporated growth areas. However, as with the single envelopes of the other jurisdictions, public service is not assumed for properties outside these areas.
- Baltimore and Frederick Counties are seeing trends toward more requests for service outside of their service envelopes, probably because of the availability and relative affordability of land compared to land within the service areas. Harford and Prince George’s Counties have not experienced many requests to date.
- All of the Counties surveyed indicated that exceptions approving service outside of established service areas are rare.
- None of the jurisdictions surveyed have a separate policy (such as Montgomery County’s PIF Policy) that would make public service available to PIF uses that would not otherwise be available for other uses. Some PIF uses, such as places of worship, are permitted uses in the rural zones of all of the jurisdictions surveyed, but are not eligible for public service in those zones.

- Prince George's County has a "Public Use Allocation Policy" that provides some accommodation to public facilities that may locate outside the County's service area.
- None of the jurisdictions surveyed had special environmental controls (such as impervious area caps) targeted in the rural zones.

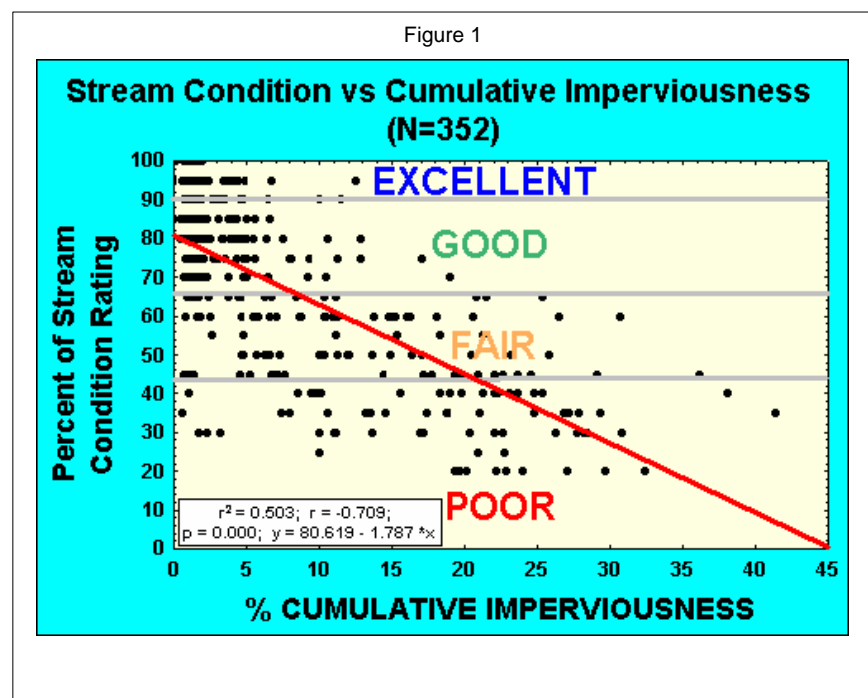
## VII. Environmental Issues Associated with PIFs in the RDT, Rural , Rural Cluster, RE-2, RE-1 Zones

### Impervious Area

The primary environmental concern of PIF requests in the RDT and other zones under review is that these uses create more impervious area than was envisioned under the current zoning or in that area's master plan and will negatively affect water quality.

Impervious and highly compacted surfaces covering the landscape affect how much water infiltrates and how much runs off. Recent research (Center for Watershed Protection, 2003) has shown that most stream quality indicators will decline when watershed imperviousness exceeds 10 percent, with severe impairment occurring when imperviousness exceeds 25 percent.

A preliminary regression model developed by the Montgomery County Department of Environmental Protection (Countywide Stream Protection Strategy, 2003 Update), and based exclusively on County stream quality and watershed impervious area data, also predicts that average aquatic insect IBI (index of biotic integrity) scores begin to decline from a "good" category to a "fair" category when imperviousness exceeds 8 percent. When imperviousness exceeds 21 percent, the model predicts that average aquatic insect IBIs decline to the poor category (Figure 1).



As discussed later in this report, one option considered by the Working Group was to require PIF applicants to implement best practices to reduce environmental impacts. This option raises the general question of to what extent the combined effect of modern stormwater controls, stream buffers, and forest reforestation can help mitigate the effects of increasing imperviousness and compacted soil conditions in urban and suburban watersheds.

Some studies (Environmental Resources Management, 2000, Maxted 1999, CWP 2003) have suggested a small but positive effect of stormwater control relative to aquatic insect diversity. This positive effect was seen in the five percent to 20 percent imperviousness range,

but was not detected beyond 30 percent imperviousness. The Center for Watershed Protection Study (CWP 2003) further notes that it would be premature to presume that stormwater management controls are of limited value in maintaining biological diversity in small streams. The other studies were based on outdated stormwater management criteria and therefore are not a fair reflection of current standards. Most stormwater management control structures studied to date were designed to control certain types of storms but were not specifically designed to protect stream habitat or to prevent downstream channel erosion. Forest retention and buffers may also provide benefits that have not been well quantified (CWP 2003). Few studies have actually followed a small watershed from pre-construction through to the build-out of projects to evaluate the cumulative effects of various combinations of stormwater management controls, supporting stream buffers, trees and other stormwater pollutant controls in mitigating watershed development impacts.

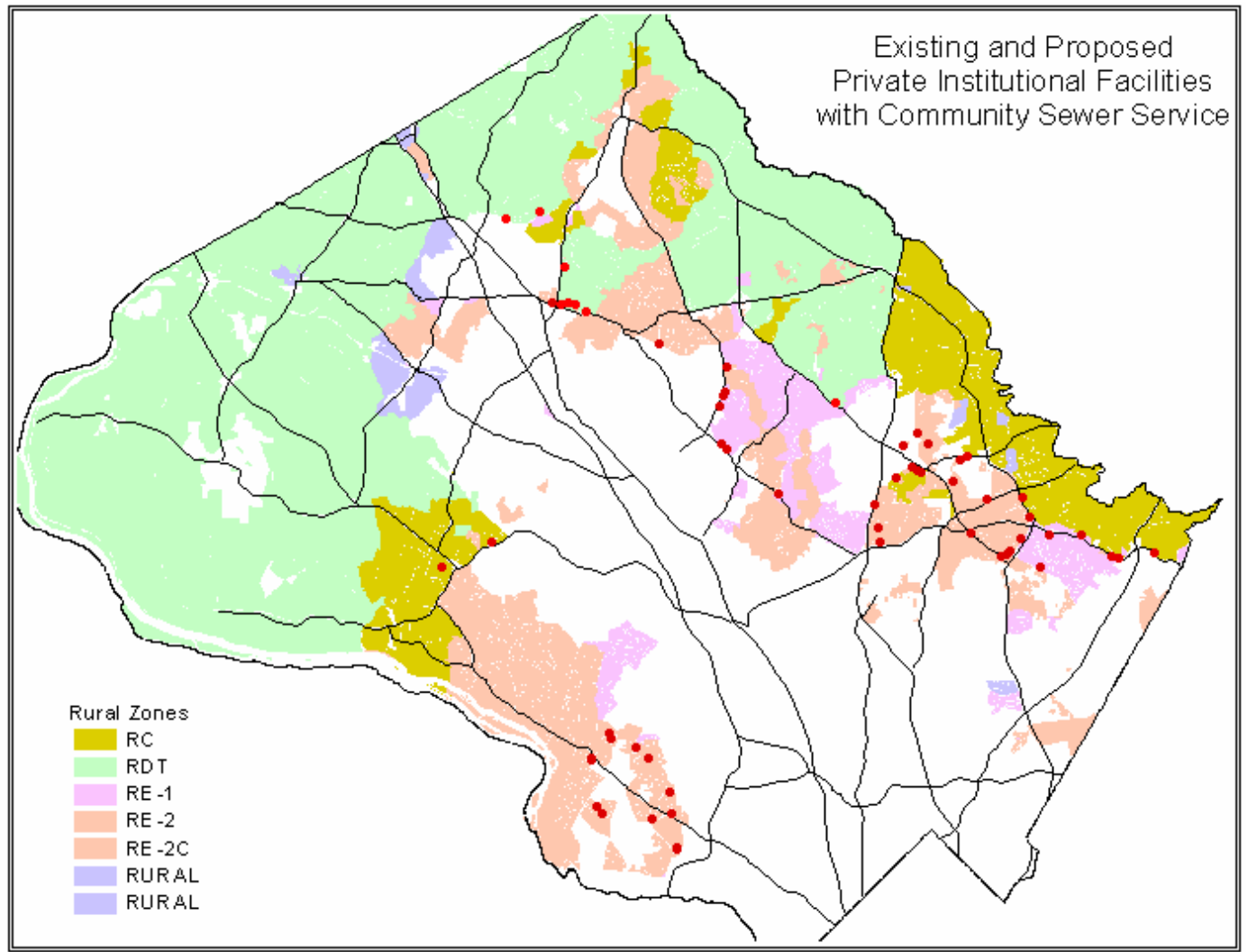
Currently, there is a lack of sufficient research results to permit confident assignment of values to account for possibilities that stormwater practices lessen impervious area effects on stream quality. Recognizing this and uncertainties about whether effective and long-term maintenance will accompany these practices, most researchers and many permitting agencies have been reluctant to suggest that higher levels of watershed imperviousness offset with combinations of stormwater management controls, stream buffers, and tree protection may correlate to better stream quality than the body of research currently indicates.

### PIF Uses

As noted in the M-NCPPC Staff report (in Appendix III) and reproduced in the table below, average imperviousness levels for existing residential and agricultural developments in the zones under review range from 5 percent in the RDT zone to 11 percent in the RE-1 zone. PIF uses vary greatly in impervious area but, in general, represent much more intense development than non PIF developments. Median impervious area of existing PIFs by zone ranges from 14 percent to 22 percent. Therefore, in zones intended for rural or large lot residential development, large PIF developments can greatly increase imperviousness levels assumed in an area.

<b>Zone</b>	<b>Average % Existing Imperviousness</b>	<b>Median Impervious Area of Existing PIFs</b>
RDT	5%	14%
Rural	6%	None
RC	6%	19%
RE-2	9%	22%
RE-1	11%	21%

Over time, PIF uses have also tended to cluster in areas just outside the existing sewer envelope but close enough to make sewer extensions feasible. The following map provided by M-NCPPC staff illustrates this clustering trend.



## VIII. Options for Addressing PIF Issues in Montgomery County

The PIF Working Group discussed the following options as possible ways to address environmental and other impacts of Private Institutional Facilities (PIFs) in RDT, Rural, Rural Cluster, RE-2, and RE-1 zones. While some options may preclude others, many of the options are not mutually exclusive (i.e., one could choose to pursue multiple options).

The options are divided into two categories:

- Zoning Options (those options that would involve changes to the Montgomery County Zoning Ordinance), and
- Water and Sewer Plan options (those options that would involve revisions to the County's Ten-Year Comprehensive Water Supply and Sewerage Systems Plan.)

Note: Master plans also come into play as they are revised, and the Working Group believes specific land use issues (such as encouraging or discouraging institutional uses in certain areas) should be part of the master plan process.

After each option description, a brief summation of the Working Group discussion is noted.

### Zoning Options

1. **Prohibition by Use or Size of Use:** Currently certain institutional uses are allowed either by right (such as places of worship) or by special exception (such as day care centers) in the RDT and the other zones under discussion. These uses could be prohibited or restricted in size in these zones. This approach would not distinguish as to whether a property is to be served with well and septic or public water and sewer. This approach also would not distinguish between areas of varying environmental sensitivity, nor does it directly link to the potentially varying environmental impacts of different institutional uses.

*The Working Group believes removing PIFs that are permitted uses outright would be overly restrictive and not necessary to meet the Working Group's environmental goals. Impervious area caps are a more direct way to address environmental concerns.*

2. **Require a Special Exception for All PIF Uses in Specified Zones:** Many institutional uses require special exceptions to locate in certain zones. Places of worship are permitted uses (without a special exception requirement) in all zones. This approach would require all institutions to go through the special exception process to locate in these zones. A special exception requirement might also be triggered by the size (impervious area, building coverage, building square footage, etc.) of any use.

*The Working Group felt that environmental impacts were best addressed more directly through other strategies, such as the PIF Policy or impervious area caps.*

*However, the Working Group discussed this option at length with regard to the issue of community impacts. The Working Group did not reach a consensus as to whether the special exception process was the most efficient and effective way to address community impacts. There was some recognition that requirements for special exceptions would trigger public notification processes and opportunities for comment which would be an improvement over the more limited notification resources and processes available under the current PIF requirements.*

3. **Require Site Plan Review:** Under this approach, a site plan would be required for developments meeting certain criteria. The criteria could include those developments that will have building coverages that exceed a certain trigger point for each zone. Currently, site plan reviews focus on compatibility issues. However, under this option, environmental and other impacts could be considered as well under new criteria.

*The Working Group felt that putting in place a site plan review process for all PIFs would be burdensome to both applicants and the Planning Board. As noted later, site plans will be needed for large PIF developments to identify and verify impervious area coverage assumptions to ensure that impervious area caps are not exceeded.*

4. **Add Impervious Area Caps by Zone:** Building coverage limits currently exist in the Zoning Ordinance. These limits could be modified and new limits could be imposed by zone on total lot coverage as well. Total lot coverage would include all impervious areas, such as parking lots, that are separate from the buildings. All uses (unless specifically exempted such as agricultural uses) would be covered by these caps regardless of whether they receive public water or sewer service. This approach was recommended by the Planning Board in its zoning text amendment transmittal to the Council in April 2004.

*The Working Group believes that impervious area caps are a viable and direct way to address water quality issues. The Working Group recommends that impervious area caps be established in the RDT, Rural, RC, RE-2, and the RE-1 zones. For more details, please see the Recommendations section of this report. Depending on the level of caps set by zone, some large PIF developments would be prohibited or would have to be on larger tracts of land to meet the cap requirements. Please see the Park and Planning discussion in Appendix III which reviewed the distribution of impervious area levels for existing PIFs by zone.*

5. **Environmental Overlay Zone:** Under this approach, environmental criteria would be established that would dictate building restrictions and/or limitations across certain environmentally sensitive areas. Areas within the overlay zone could be subject to special requirements such as impervious area caps as discussed in Option #4. As with other zoning-related options, this approach would affect all properties in the overlay zone, thereby possibly hampering the viability of other desired uses allowable within certain zones.

*This approach held some appeal in that it could connect development requirements with specific environmental conditions in a given area. However, it would add substantial complexity and administrative burden to the development process in order to achieve goals that could be similarly achieved through other less burdensome ways such as impervious area caps.*

#### Possible Revisions to the Water and Sewer Plan

1. **Eliminate the PIF Policy:** Institutions would be required to meet some other Water and Sewer Plan criterion (such as abutting water and/or sewer mains, locating within the acknowledged public water and sewer service envelopes, etc.) in order to receive public service.

*The Working Group agreed that revisions to the PIF policy are needed to help better balance the benefits of PIFs with other County goals (such as environmental protection and preservation of agriculture). The Working Group did not come to a consensus that the PIF Policy should be eliminated.*

2. **Limit PIF Policy in certain areas of the County:** Under this approach, the PIF Policy would not apply in specifically designated areas. To be approved, water and sewer service requests in those areas would have to be justified by another Water and Sewer Plan policy.

*The Working Group supports revising the Water and Sewer Plan to preclude hookups or extensions into the RDT zone, except to address failing septic systems. Since this change does not address large PIF uses that may locate in the RDT on large septic systems (and in fact could encourage more developments on large septic systems) the Working Group also believes a review of Water and Sewer Plan policies with regard to multi-use septic systems (1500 gallons per day) or greater is warranted. These combined recommendations will help ensure that developments in the RDT zone are more consistent with what was originally envisioned in the Agriculture and Rural Open Space (1980) and current zoning.*

3. **Put an impervious area cap requirement (or other building limitations) within the PIF Policy.** This approach would require PIF applicants to meet certain impervious area caps in order to be eligible to receive public water and sewer service. Unlike pursuing this approach in the Zoning Ordinance, property owners who are not seeking public water and sewer would not be subject to these requirements.

*The Working Group believes that impervious area caps are more appropriate to include in the Zoning Ordinance.*

4. **Require PIF applicants to implement best practices to reduce environmental impacts:** Currently, the only regulatory review required of all developments is the sediment control permit process. This approach would require the PIF applicant to adopt a higher standard of site design and low impact development controls that could include



rain gardens, green roofs, permeable parking areas, and other “green” building practices.

*These practices should be encouraged (and are already required in some cases) and can help a development better minimize its impervious area impacts. However, as noted earlier in this report, current research is inconclusive as to the extent to which best management practices (bmps) such as those mentioned above significantly offset the environmental impacts of greater impervious area in a watershed. In addition, many of these bmps require future maintenance to ensure continued benefits and County inspections and oversight would be required to ensure that bmps were still functioning properly. This may not be an appropriate or reasonably enforceable function under the administration of the Water and Sewer Plan.*

- 5. Require Pre-Application Plan Approval:** PIF applicants would be required to submit a pre-application plan for review to M-NCPPC as part of their water/sewer category change application. This plan would then be reviewed by DEP, DPS, Park and Planning, and other County agency staff as part of the PIF review process.

*This pre-application plan would help decisionmakers understand what is intended for a site. However, once water and sewer service is approved, the plan might change for a variety of reasons. Therefore it does not provide an assurance that what is seen at the time of approval is what will be built.*

## IX. Recommendations

The Working Group debated many different options for addressing environmental issues, agricultural issues (in the RDT zone), and community concerns related to PIF uses. The Working Group focused on the impacts of PIFs in general and not any particular PIF use.

Ultimately, the Working Group felt that its primary goal was to maintain “good” water quality in the zones under review. The categorization is important because it has implications for what impervious area goals should be.

The Working Group believes the water quality goals can be achieved without further burdening agricultural uses in the RDT zone. In fact, the recommendations may help to maintain areas in agricultural use. Therefore, the Working Group agreed that any recommendations affecting the RDT zone should include exemptions for agricultural uses.

The Working Group struggled with the issue of community impacts of large PIF uses. As noted in the public hearing testimony and other correspondence received, large PIF uses may create significant community impacts. While the Working Group’s impervious area cap recommendations would likely have an effect of minimizing some of these impacts of future expansions or new developments (as would PIF policy changes recommended below for the RDT zone), the Working Group could not reach a consensus on how to address community impacts. Further study of the issue of community impacts from PIFs is needed.

Another concern that will need to be addressed if any changes are made to either the Zoning Ordinance or the Water and Sewer Plan is grandfathering approved and existing uses. In general, the Working Group supports grandfathering those uses already in place and/or approved by the Council. However, any future or pending requests should be subject to any changes approved by the Council.

These recommendations represent the beginning (not the end) of this process. These recommendations will require a full review by the Council through its zoning text amendment and Water and Sewer Plan amendment processes. These processes include public hearing requirements, so that all parties will have an opportunity to comment further on these issues.

Finally, it is important to note that the Maryland Department of the Environment (MDE) has final authority over a County’s water and sewer policies. Policy changes and/or category change approvals made by the County Council are subject to review by MDE.

### **Recommendation #1:**

**Revise the Water and Sewer Plan to prohibit sewer hookups and extensions within the RDT zone to serve PIF uses, except in cases of failed septic systems. If approved, this recommendation would mean:**

- **Sewer extensions into the RDT zone to accommodate PIFs would be prohibited**

- **Single hookups from existing sewer mains (currently allowed under the abutting mains policy) to serve PIFs would also be prohibited.**

The Working Group believes that providing sewer extensions in the RDT zone runs counter to the intent of the RDT zone as envisioned in the Preservation of Agriculture and Rural Open Space Master Plan (1980) and counter to the County's working agricultural policies in general. Sewer extensions for PIF uses within the RDT zone allow for denser development than would otherwise be possible and (based on prior history) are likely to spur requests for additional extensions or hookups in the future, further exacerbating the problem.

## **Recommendation #2:**

**The Department of Environmental Protection and Department of Permitting Services should review the Water and Sewer Plan requirements with regard to multi-use sewerage systems (individual, on site sewerage systems with 1500 or more gallons per day peak capacity) and recommend any changes needed to ensure that multi-use systems are properly planned, built, and maintained and do not adversely affect the environment or public health.**

While prohibiting sewer extensions and hookups in the RDT zone will help control the intensity of development in the RDT zone, it may also have the effect of encouraging more large PIFs to develop on multi-use septic systems. While an impervious area cap may limit how large these PIFs are, the Working Group feels that the issue of multi-use systems requires further review. These systems, if not designed, constructed, or maintained properly, could require future County action to address public health issues.

In general, the Working Group feels strongly that the PIF Policy in the Water and Sewer Plan represents a major exception to policies in area master plans and in the Water and Sewer Plan itself. The recommended changes, both in the PIF Policy and in the Zoning Ordinance (see below), will help ensure that approvals via the PIF Policy are more environmentally sensitive.

## **Recommendation #3:**

### **Approve a Zoning Text Amendment to:**

- b. **Add impervious area caps in various zones as originally proposed by M-NCPPC staff that would affect new development and expansions of existing development:**
  - i. **15% in the RDT zone (with agricultural uses exempt)**
  - ii. **20% in the Rural, RC, RE-2, and RE-1 zones**
- c. **Grandfather existing developments that exceed these caps, although future expansions would be subject to the cap.**

The Working Group reviewed at length the concept of impervious area caps and different ways caps may be implemented. Impervious area caps would directly address water quality concerns. As noted earlier in this report, both national and local research has found that water

quality within watersheds begins to deteriorate (go from good to fair) once total impervious area begins to exceed 8 percent.

Recognizing that the support for working agriculture is a fundamental goal in the RDT zone, agricultural uses are recommended to be exempted from the changes recommended in the RDT zone.

The Working Group discussed the M-NCPPC approach proposed in April 2004 as well as alternative approaches. Creating caps by drainage area, for instance, would be a very direct way to protect water quality and caps could be set at different levels depending on the category of stream affected and the water quality goal. However, administering such a cap would be more burdensome than a per property cap. Also, without a per property cap, the first development in a drainage area could take up all available cap space within a drainage area. Finally, some areas in the affected zones may already be at the designated cap in the drainage area. This approach would effectively preclude any development on some vacant parcels unless exceptions were made (further complicating the issue).

As a result of these discussions, the Working Group believes the M-NCPPC recommended approach is a reasonable and feasible way to enhance the protection of water quality within the zones under review. As noted in the M-NCPPC staff memorandum on this issue, the recommended caps are higher than the 8 percent goal that would otherwise be needed to keep water quality at a good level, since other areas within the RDT zone are assumed to remain below the 8 percent level and can balance out these higher levels in that zone. For the other zones, the Working Group felt that an 8 percent cap was an unreasonably low number given development patterns in place. The Working Group felt that the respective 15% and 20% impervious caps proposed for the rural zones represents a reasonable balancing of the sometimes competing economic development, community, agricultural, and environmental considerations to be accommodated.

The Working Group recognizes that the particular impervious area caps recommended above reflect its attempt to provide the needed level of environmental protection in an equitable way that does not totally preclude PIFs from any zone.

The changes recommended in the Water and Sewer Plan (as well as further study of multi-use systems) and the impervious area caps suggested provide multiple environmental safeguards. The Working Group believes both are needed. However, it is possible to adopt the zoning text amendment without the Water and Sewer Plan changes or vice versa.

#### **Recommendation #4:**

**Future Master Plan revisions should identify areas where PIFs are encouraged and/or discouraged and whether water/sewer should be provided to serve these uses.**

As noted by several church representatives at the April 13 public forum, the County's population has grown dramatically in the last few decades, but land use planning has not accounted for the increased demand for many PIF services (such as churches, day care centers, and private schools). Combined with skyrocketing costs of land, these trends have led PIFs to look further out in the County for sufficiently-sized affordable land.

The Working Group believes that future master plan reviews should include discussion regarding future PIF needs and should identify areas where PIFs should be encouraged or discouraged and whether certain areas should be provided with public water or sewer or by septic systems to serve PIF uses. Absent a conscious planning effort to find areas appropriate for future PIF uses, the problem will only get worse over time.

Since master plans come to the Council one by one, are updated infrequently, and may not specifically address particular lots or sub-areas in master plans, Master plan updates are not a practical way to deal with the issues addressed in Recommendations 1, 2, and 3. Also, although master plans carry great weight with the Council, they are considered advisory in nature, and would not necessarily ensure a consistent approach to the issue over time. Therefore, it is important to have zoning and/or Water and Sewer Plan requirements that fill these gaps.

## **Appendices**

**Appendix I – Private Institutional Facilities Policy History**

**Appendix II – Survey of Other Maryland Jurisdictions**

**Appendix III – Planning Board Zoning Text Amendment Transmittal Letter (April 2004)**

**Appendix IV – April 13 Public Forum Testimony and Other Correspondence**

## **Appendix I – Private Institutional Facilities Policy History**

### **A HISTORY OF THE WATER AND SEWER PLAN POLICIES ADDRESSING PRIVATE INSTITUTIONAL FACILITIES (PIFS)**

**Compiled by the  
Department of Environmental Protection – Water and Wastewater Policy Group  
June 2005**

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Throughout most of the 30-plus-year history of Montgomery County's Comprehensive Water Supply and Sewerage Systems Plan, the County has allowed a water/sewer service policy exception of some type for facilities belonging to non-profit institutions. The Plan refers to these as private institutional facilities, or "PIFs." Although most PIF cases involve religious institutions, they have also addressed uses such as private schools and higher-education, elder-care and hospice facilities.

Whether by granting individual exceptions to general service policies, or by establishing formal policies under which they were allowed special service considerations, PIFs have been largely exempt from the community (public) water and sewer service policies applied to most other residential and commercial development. The justification for this special consideration has often been the public benefit from the social service programs and community resources that these institutions bring to their neighborhoods. However, the locating of these facilities, especially in the more rural areas of the county can result in effects on the environment and local communities that draw into question the advisability of making such exceptions. As the Council has enacted various restrictions and requirement to address these issues, the PIF policy has grown longer and more complex.

#### **1973 – 1981: EARLY COUNTY PLANS, PIFS, AND THE SEWER WARS**

In these first Water and Sewer Plans developed by the County government, the main focus on private institutional facilities (PIFs) was centered on the issue of sewer moratoria in parts of the county. The lack of actual sewerage transmission and planned treatment capacity resulted in a freeze on most new sewer service connections, and therefore on new sewer-dependent development, within certain sewersheds served by the Washington Suburban Sanitary Commission (WSSC). One of the few exceptions allowed to these moratoria were PIFs. At the time, PIFs were referred to as "public service buildings." These early plans set up the definition for public service buildings as those eligible for an exemption from Section 501 Title 26 the Federal tax code, which has carried through to the latest Water and Sewer Plans.

#### **1983 – 1993: THE PIF ADMINISTRATIVE POLICY AND EXCEPTIONS TO THE RULES**

#### **1983 – 1992 WATER AND SEWER PLAN**

**Comprehensive Update: Adopted 7/12/83 – CR 10-305**

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In the early 1980s, with development starting to boom, the County Council sought a way to relieve itself of some of the volume of category change requests it needed to review and act on each year. The County chose to keep tight control over the category change process, addressing each property or project individually, rather than comprehensively by neighborhood or master plan area. Therefore, any site not already approved for public water/sewer service needed to proceed through the category change process with the Council.

The 1983 Plan established an administrative authority, delegated from the County Council to the Director of DEP, to approve water/sewer category changes under specific circumstances. This authority included the earliest formal policy which allows the County, perhaps by implication, to approve the provision of public water and/or sewer service to PIF uses, where such service would not ordinarily be provided. At this time, administrative delegation approvals did not require a public hearing. Note also that at the time that PIFs are referred to as “public service buildings”.

## **CHAPTER 1 – OBJECTIVES AND POLICIES**

### **III. PLAN OBJECTIVES AND POLICIES**

#### **B. Specific Policies**

8. Administrative Delegation – The Director of the Department of Environmental Protection is delegated the authority to approve, without public hearing, community water and/or sewerage service under the following circumstances:

b. Public Facilities and Public Service Buildings – Water and sewerage service may be extended to service public facilities and service buildings. However, such extensions generally shall not be used as justification for the connection of intervening or nearby parcels if they would not otherwise be entitled to connect to the system.

## **1986 – 1995 WATER AND SEWER PLAN**

### **Comprehensive Update: Adopted 11/25/86 – CR 10-2281**

The 1986 Plan update significantly expanded the administrative delegation authority, allowing DEP to grant administrative approvals for requests which were identified as consistent with Water and Sewer Plan policies and master plan recommendations. The PIF policy update from the 1986 Plan makes two changes from the 1983 Plan:

- 1) While the policy continues the PIF approval policy under DEP’s administrative delegation process, it now requires an administrative public hearing. This was a general change in the administrative policy, not limited only to PIF cases.
- 2) In subsection b., the policy provides a definition for what qualifies as a PIF (or public service building), which was lacking in the prior Plan. This definition was established much earlier in the Plan in 1973, apparently to define PIFs as allowed exceptions to certain sewer service moratoria existing at the time.



At this time, PIF category changes handled through the administrative process were largely limited to cases located within the acknowledged water and sewer service envelopes. DEP, through the County Executive, usually forwarded projects located on sites outside these envelopes to the County Council for consideration. DEP staff regularly recommended against the approval of category changes for PIFs seeking public service where the sites were located well outside the public service envelopes or which required lengthy main extensions for service. However, a recommendation to deny such a request rarely survived either the Executive's or the Council's review. This resulted in a situation where a PIF was almost guaranteed a category change approval provided the service was technically feasible and the institution could afford to construct the required water and/or sewer main extensions.

## **CHAPTER 1 – OBJECTIVES AND POLICIES**

### **III. POLICIES AND PROCEDURES FOR WATER AND SEWERAGE SERVICE**

#### **C. Additional Policies for Water and Sewerage Service**

**9. Administrative Delegation** – The Director of the Department of Environmental Protection is delegated the authority to approve, with public hearing, community water and/or sewerage service under the following circumstances:

b. **Public Facilities and Public Service Buildings** – Water and sewerage service may be extended to service public facilities and service buildings. (Public facilities are defined as government-owned facilities. Public service buildings are defined by County Council Resolution No. 7-1539, December 11, 1973, as “buildings constructed for an organization which is qualified for an exemption under the provisions of Section 501 of Title 26 of the United States Code (Internal Revenue Service).”) However, such extensions generally shall not be used as justification for the connection of intervening or nearby parcels if they would not otherwise be entitled to connect to the system.

## **1986 – 1995 WATER AND SEWER PLAN**

### **Amendment: Adopted: 4/4/93 – CR 13-89**

This Plan text amendment restructured much of the DEP administrative delegation process, which was still the home of the PIF policy. However, recent PIF cases approved by the Council had initiated members' concerns about the how they were addressing policy exceptions and exactly how much leeway they could allow in approving these types of cases. Three significant cases, all located outside the public sewer envelope and all of which the Council eventually approved, highlighted these concerns:

- St. Paul's Catholic Church (90A-DAM-02, CR 12-481) on Damascus Rd. (MD 108), which required a half-mile pressure sewer extension to provide service in the eastern Damascus.
- Immanuel's Church (90B-PAX-05, CR 12-1162) on New Hampshire Ave. (MD 650), which, as one service option, had proposed a mile-long pressure sewer extension to provide service in Cloverly. (Service was eventually provided by a much shorter extension to the Hampshire Greens project.)

Ultimately, the Council chose to place a temporary “hold” on the use of the PIF policy for properties located outside the acknowledged public service envelopes, resulting from the County Council’s concerns over:

- 1) How much latitude the Council would grant to PIF users in extending public water and/or sewer service beyond the limits of the public service envelopes, and
- 2) The potential for the main extensions to support PIF uses to open up access to public water and/or sewer service in areas outside the intended public service envelopes.

The Council requested that in the interim DEP work with other County agencies to develop a PIF policy which would address these concerns and provide PIF applicants a reliable policy on which to base their expectations for public water and sewer access. Note also that non-profit uses are now referred to as “private institutional facilities” (PIFs), rather than “public service buildings,” which were sometimes confused with “public facilities.”

## **CHAPTER 1 – OBJECTIVES AND POLICIES**

### **III. POLICIES AND PROCEDURES FOR WATER AND SEWERAGE SERVICE**

#### **D. Additional Policies for Water and Sewerage Service**

**9. Administrative Delegation** – The Director of the Department of Environmental Protection is delegated the authority to approve, with public hearing, community water and/or sewerage service under the following circumstances:

**b. Public Facilities and Private Institutional Facilities** -- Community water supply and sewerage systems may be extended to serve public facilities. Public facilities are defined as government-owned facilities.

Private institutional facilities are defined by County Council Resolution No. 7-1539, adopted December 11, 1973, as "buildings constructed for an organization which is qualified for an exemption under the provisions of Section 501 of Title 26 of the United States Code (Internal Revenue Service)." A county interagency working group is currently reviewing the county's land use, zoning, subdivision, and water/sewer policies concerning private institutional facilities. Pending the results of this review and any resulting policy recommendations, the following policy shall apply to service area change requests for private institutional facilities filed with DEP after June 15, 1993: requests for community service for sites located in areas not recommended for such service by the general policies of this plan shall be referred to the County Council with a recommendation to defer action. The Director may continue to approve requests involving community or multi-use systems which are consistent with the general policies of this plan under this administrative process. This deferral policy, unless subsequently amended by the County Council, shall continue through calendar year 1995.

However, service extensions for public facilities or private institutional

facilities shall generally not be used as justification for the connection of intervening or nearby properties if they would not otherwise be entitled to connect to the system.

## **1996 – PRESENT: A PIF POLICY TO ADDRESS THE EXCEPTIONS**

### **1986 – 1995 WATER AND SEWER PLAN**

#### **Amendment: Adopted 4/9/96 - CR 13-491**

In early 1996, the County Executive recommended an interim PIF policy based on the work of an interagency group assigned to deal with the issue. At this time, the County's Religious Institutions Working Group was in the process of addressing concerns involving community impacts (scale of development, traffic and parking, etc.) resulting from religious facilities. This effort did not directly address the question of public water and sewer service for these facilities.

The Council considered the Executive's recommended policy, subsequently modified it, and finally adopted the policy which follows. One of the major changes from past Water and Sewer Plans was to establish that the County Council directly address PIFs seeking public service on sites located outside the acknowledged public water/sewer service envelopes. These cases were made distinct from those which could generally be handled administratively where the site was located within the public service envelopes. The policy was crafted to limit the potential for opening up public service for other intervening or nearby properties resulting from locating PIFs outside the public service envelopes. Another major change separated the PIF service **policy** from the administrative delegation **process**.

## **CHAPTER 1 – OBJECTIVES AND POLICIES**

### **III. POLICIES AND PROCEDURES FOR WATER AND SEWER SERVICE**

#### **D. Additional Policies for Water and Sewer Service**

#### **Revised Administrative Delegation Policy Section**

##### **9. Administrative Delegation**

d. **Private Institutional Facilities** -- Category changes to allow the provision of community service to private institutional facilities, as defined under Section III.D.15. of this chapter, may be approved under this administrative process provided that the facility site is located within the acknowledged water and/or sewer service envelopes. Category changes for sites located outside the acknowledged service envelopes shall be addressed by the County Council according to the general policies related to private institutional facilities in this Plan.

#### **New General Policy Section**

15. **Community Service to Private Institutional Facilities** -- Private institutional facilities are defined by this Water and Sewer Plan as buildings constructed for an organization which is qualified for an exemption under the provisions of Section 501 of Title 26 of the United States Code (Internal Revenue Service). Pending the County Council's action on the results of an ongoing study by the Religious Institutions Working Group, the provision of community water and/or sewer service to such facilities shall be addressed on a case-by-case basis by the following interim policies:

a. For private institutional facilities located within the acknowledged water and/or sewer envelopes, service area category changes may be approved by MCDEP through the administrative delegation process (see Chapter 1, Section III.D.9.d.). For a specific site, the acknowledged water and sewer service envelopes may differ due to the provisions of the "Water without Sewer" policy included in this Plan (see Chapter 1, Section III.C.7.).

b. For private institutional facilities located outside the acknowledged water and/or sewer envelopes, service area changes may be approved by the Council County according to the following criteria:

i. Existing water and/or sewer mains abut the site, requiring only water/sewer connections and hookups for service, or

ii. Water and/or sewer main extensions are required for service, but the main extensions will abut only properties which are otherwise eligible for community service under the general policies of this Plan, or

iii. Water and/or sewer main extensions are required for service to existing private institutional facilities only, but the service extensions do not threaten to open

undeveloped land to development contrary to the master plan.

Main extensions, where required, shall be designated "Limited Access" consistent with the Limited Access Mains policy (see Chapter 1, Section III.D.12). The Council may require that all main extension costs be paid by the institution seeking the service. Private institutional facilities may receive service from limited access water or sewer mains where the Council has specifically approved access to those mains.

c. For facilities located outside the acknowledged water and/or sewer envelope, service area changes may be denied by the Council County where the facility site does not satisfy any of the preceding criteria for community service. This shall also include cases where main extensions are required (see preceding sections b.ii. and iii.) for private institutional facilities seeking community service for existing residential structures.

## **1999 – 2008 WATER AND SEWER PLAN**

### **Comprehensive Update: Adopted 12/14/99 - CR 14-377**

The recommendations of the Religious Institutions Working Group, which were aimed primarily at the County's zoning ordinance, were ultimately never adopted. The following policy, adopted as part of the 1999 comprehensive update of the Water and Sewer Plan, is largely unchanged from the prior version, except that it in dropped the reference to the working group and deferring requests pending the outcome of its recommendations. In this regard, this policy became the permanent PIF policy in the Plan. Another difference is the policy's location within the text; DEP revised the Chapter 1 structure again to better separate service policies from the processes required for updating and amending the plan.

## **CHAPTER 1 – OBJECTIVES AND POLICIES**

### **IV. POLICIES AND PROCEDURES FOR WATER AND SEWERAGE SERVICE**

#### **C. Policies for Water and Sewer Service**

**7. Community Service for Private Institutional Facilities --** Private institutional facilities are defined by this Water and Sewer Plan as buildings constructed for an organization which is qualified for an exemption under the provisions of Section 501 of Title 26 of the United States Code (Internal Revenue Service). The provision of community water and/or sewer service to such facilities shall be addressed on a case-by-case basis by the following policies:

a. For private institutional facilities located within the acknowledged water and/or sewer envelopes, service area category changes may be approved by DEP through the administrative delegation process (Section V.F.1.d.: Consistent with Existing Plans). For a specific site, the acknowledged water and sewer service envelopes may differ due to the "General Policies for Community Water Service" policy included in this plan (Section III.C.1.).

**b.** For existing or proposed facilities located outside the acknowledged water and/or sewer envelopes, service area changes may be approved by the Council County according to the following criteria:

**i.** Existing water and/or sewer mains abut the site, requiring only water/sewer connections and hookups for service, or

**ii.** Water and/or sewer main extensions are required for service, but the main extensions will abut only properties which are otherwise eligible for community service under the general policies of this plan, or

**c.** For existing facilities only located outside the acknowledged water and/or sewer envelopes, service area changes may be approved by the Council County where water and/or sewer main extensions are required for service, but the service extensions do not threaten to open undeveloped land to development contrary to the master plan.

**d.** Main extensions, where required, shall be designated "Limited Access" consistent with the Limited Access Mains policy (see Section VII.A.2). The Council may require that all main extension costs be paid by the institution seeking the service. These facilities may receive service from limited access water or sewer mains where the Council has specifically approved access to those mains. The provision of community service under this policy shall not be used as justification for the connection of intervening or nearby lots or parcels if they would not otherwise be entitled to connect to community systems.

**e.** For facilities located outside the acknowledged water and/or sewer envelope, service area changes may be denied by the County Council where the facility site does not satisfy any of the preceding criteria for community service. This shall also include cases where main extensions are required (see preceding Sections 7.b.ii. and 7.c.) for private institutional facilities seeking community service for existing residential structures.

## **2003 – 2012 WATER AND SEWER PLAN**

### **Comprehensive Update: Adopted 11/18/03 - CR 15-396**

By 2001, with five years of experience in implementing the PIF policy, DEP, M-NCPPC, and the County Council were raising concerns about the policy's effects on the environment (especially with regard to imperviousness), on rural communities and agricultural lands, and on how potential sites were promoted for speculative PIF development. An interagency working group (DEP, M-NCPPC, DPS, Planning Implementation, and Council staff) examined these issues. Their input helped to craft the PIF policy recommended in the Executive's draft update of the 2003 Water and Sewer Plan, which included the following:

- A restriction against serving new PIF uses in the RDT Zone, proposed as an interim measure pending a broader review of the policy and land use issues involved;

- A restriction against the use of new WSSC-owned and operated wastewater pumping stations to support only PIF uses in areas located outside the public sewer envelope;
- A requirement that PIF cases for sites which abutted existing water and/or sewer mains be addressed by the Council, resolving a policy inconsistency in the 1999 update of the Plan;
- A requirement that the existing or proposed PIF user function as the category change request applicant, aimed at reducing the speculative nature of some requests.

The Planning Board went further with its recommendations concerning the Plan update, asking the Council to ban all public water and sewer service in the RDT Zone, and to allow only residential buildings to use the allowed single water and/or sewer connections for properties which abut and predate an existing main under the Plan's "abutting mains" policy. Ultimately, the Council decided to continue to allow consideration of public water and sewer service for PIFs in the RDT Zone on a case-by-case basis, and accepted the Executive's recommendations on cases involving properties abutting existing mains.

However, probably the most significant discussions in the adopted PIF policy were the following, which were intended to address the future direction of the policy and the ongoing debate about how the County addresses PIF-type land uses (see Subsection e. PIF Policy Directions, below):

- The identification of the accumulated concerns with regard to the PIF policy;
- An acknowledgement that not all of these issues could necessarily be addressed through changes to or elimination of the PIF policy; and
- An acknowledgement that an examination of other County policies and regulations may procedures, such as the Zoning and Subdivisions Ordinances and master plans, may be necessary to address these policy concerns.

## **CHAPTER 1 – OBJECTIVES AND POLICIES**

### **II. POLICIES FOR THE PROVISION OF WATER AND SEWERAGE SERVICE**

**E. Special Policies for Water and Sewer Service** -- In addition to the preceding general service policies, the County Council has adopted specific policies for the provision of community water and/or sewer service which create exceptions to the general service policies. The Council has also adopted service recommendations in local area master plans which create exceptions to the general service policies.

**4. Community Service for Private Institutional Facilities** -- This Plan defines private institutional facilities (PIFs) as buildings constructed for an organization which qualifies for a federal tax exemption under the provisions of Section 501 of Title 26 of the United States Code (Internal Revenue Service). The provision of community water and/or sewer service to such facilities shall be addressed on a case-by-case basis by the following policies:

**a. Facilities Located Within the Community Service Envelopes** -- For private institutional facilities located within the acknowledged water and/or sewer

envelopes, service area category changes may be approved by DEP through the administrative delegation process (Section V.F.1.a.: Consistent with Existing Plans). For a specific site, the acknowledged water and sewer service envelopes may differ due to the general water and sewer service policies (Section II.D.) included in this Plan.

**b. Facilities Located Outside the Community Service Envelopes** -- For existing or proposed PIF uses located outside the acknowledged water and/or sewer envelopes, the County Council shall consider requests for the provision of community service for PIF uses according to the following criteria:

**i. Sites Abutting Existing Water and/or Sewer Mains** -- For cases where existing or approved water or sewer mains abut or will abut a property, service area category amendments may be approved for sites with an existing PIF use and for sites proposed for a new or relocating PIF use.

**ii. Sites Requiring New Water and/or Sewer Mains Extensions** -- For cases where the provision of community service for a PIF use requires new water and/or sewer mains, the following criteria shall apply:

- For existing PIF uses, service area category amendments may be approved for sites only where required water and/or sewer main extensions do not threaten to open undeveloped land to development contrary to the intent of the relevant local area master plan.
- For new or relocating PIF uses, service area category amendments may be approved for sites only where required water and/or sewer main extensions will abut only properties which are otherwise eligible for community service under the general policies of this plan.

**c. Main Extensions for PIF Uses** -- Main extensions outside the acknowledged community service envelopes, where required, shall be designated "Limited Access" consistent with the Limited Access Water and Sewer Mains policy (see Section III.A.2). Where community sewer service for a PIF use will be provided by low-pressure mains, those mains shall be dedicated only to that PIF use and generally not eligible for additional service connections. The County and WSSC may make limited exceptions to this requirement to allow for the relief of failed septic systems, where such service is technically feasible.

PIF uses may receive service from limited access water or sewer mains where the Council has specifically approved access to those mains. The provision of community service under this policy shall not be used as justification for the connection of intervening or nearby lots or parcels if they would not otherwise be entitled to connect to community systems.

Under its Systems Extension Permit (SEP) process, WSSC now requires that



all commercial and institutional service applicants construct and pay for the community systems main extensions needed to serve their projects. In cases where more than one PIF use proposes to locate on a site requiring a pump and low-pressure main extension, WSSC requires that each institutional facility have a separate pump and pressure main system. The County and WSSC shall not support the provision of community sewer service for a PIF use where that service will require a WSSC-owned and operated wastewater pumping station which does not also support community sewer service for other non-PIF uses consistent with the service policies of this Plan.

**d. PIF Uses in Existing Residential Structures** -- The Council may deny service area category amendments for PIF uses located outside the acknowledged water and/or sewer envelopes where main extensions are required for private institutional facilities seeking community service for existing residential structures. This could result in the extension of community water and/or sewer service for structures which would not otherwise be eligible for such service, and which could return to residential use.

**e. PIF Policy Directions** -- The Council originally adopted a Water and Sewer Plan service policy addressing PIF uses with three primary goals in mind:

- To continue to support, where the provision of community service is reasonable, the county's private institutional facilities, which the Council recognized as having an important role in their communities and for their residents;
- To provide more objective and consistent criteria in evaluating PIF cases; and
- To limit the potential impact of water and sewer main extensions outside the community service envelopes to support PIF uses.

The PIF policy has accomplished the preceding goals, at least to some extent. However, it has also created unintended concerns, involving complex relationships between differing public policies and affecting private institutions needing space to locate and grow within an often fiercely competitive Real Estate market. This makes less costly land, usually located outside of the community water and sewer service envelopes and zoned for lower-density development, more attractive to institutional uses. Among the concerns which have come to the attention of both the County Council and County agency staff are the following:

- The policy has resulted in the clustering of PIF uses at the edge and outside of the acknowledged community water and/or sewer service envelopes.
- The policy has facilitated the siting of PIF uses on properties where the

institutional use and its ancillary needs, especially parking, can create imperviousness far in excess of that normally resulting from residential uses, leaving little open space and creating water quality problems.

- The policy has facilitated the siting of PIF uses within the county's RDT-zoned agricultural preserve areas.
- The policy has promoted speculative interest in sites because of their potential ability to satisfy the PIF policy requirements, not because a specific private institution has a need for that site.
- The policy does not provide guidance concerning institutional subdivisions, where two or more PIF uses subdivide and locate on an existing property approved for community service.
- The policy can not address issues beyond the scope of the Water and Sewer Plan, such as community compatibility, traffic congestion, and alternate facility uses.

DEP, other County agency, and County Council staff representatives have begun a review of the PIF policy, with particular attention to the preceding issues. The PIF policy adopted in this Water and Sewer Plan contains changes from the original PIF policy which address some of these concerns. Among these are restrictions preventing public support for community service to PIF uses where WSSC pumping facilities would be required, and policies requiring private institutions to act as the applicants for PIF-based service area change requests (see subsection c., above.) However, further interagency work on the impact of PIF uses is needed not only in the context of the Water and Sewer Plan, but also in other County plans and policies.

#### **Water and Sewer Plan Recommendation**

The County cannot address all of the issues affecting private institutional uses only within the context of the Water and Sewer Plan. Addressing these issues will involve considering changes to other aspects of the County's land use planning, zoning and water quality protection processes. The County will likely need to address these institutional uses in the context of its master plans, zoning and subdivision ordinances, and water quality regulations. M-NCPPC staff and the Planning Board are urged to pursue options for establishing imperviousness limits for institutional facilities locating in rural and rural estate zones.

## **CHAPTER 1 – OBJECTIVES AND POLICIES**

### **V. PROCEDURES FOR ADOPTING AND AMENDING THE WATER AND SEWER PLAN**

#### **D. Filing Individual Service Area Category Change Requests**

**2. Application Requirements for PIF Category Change Requests** -- In cases involving service area category amendments for private institutional facilities (PIFs – see Section II.C.4.), the institution seeking to use the property must act as the category change applicant. If a site is proposed for two or more PIF uses, then at least one of the proposed institutions must act as the applicant. PIF applicants need to include a confirmation of their tax-exempt status as part of their category change request.

## **2003 – 2012 WATER AND SEWER PLAN**

### **2005 Interagency PIF Working Group**

The report to which this history is attached represents the work to date of the PIF Working Group established at the direction of the Council in 2005. This group has begun the process of addressing the policy concerns raised in the PIF policy from the 2003 Plan update. Their recommendations could result in changes to the PIF policy, depending on the direction the Council wishes to take with these issues.

Another concern that has risen recently is the State's involvement with the Water and Sewer Plan. The Department of the Environment (MDE) reviews and is required to approve the County's Water and Sewer Plan and its amendments, including category changes. Based on guidance from the Department of Planning (MDP), MDE has recently questioned the County's practice of allowing public water and sewer service for sites located outside the public service envelopes recommended by the County's local area master plans. The Council's prerogative to grant such approvals, based on Water and Sewer Plan policies, is an integral part of the PIF policy. The outcome of discussions between the County and the State on this issue may have a significant and lasting effect on the PIF policy.

### **SUMMARY OF PRIVATE INSTITUTIONAL FACILITY (NON-PROFIT) CATEGORY CHANGE CASES CONSIDERED SINCE ADOPTION OF THE "CURRENT" PIF POLICY**

#### **CATEGORY CHANGE REQUESTS INVOLVING PIFS SINCE 1996**

Note: Category change requests shown in bold type were considered under the PIF policy requirements. Other requests were addressed through other policies such as public health problems, multi-use systems, and consistent with existing plans.

<b>WSSCR No. - PIF User</b>	<b>Zone - Request</b>	<b>Action - Disposition -Comments</b>
<b>92A-CLO-03: Wheaton Independent Baptist Church</b> – Ednor Rd., Cloverly	RE-2 W-3, S-3	CR 13-692: W-3 & S-3 (PIF only); site within public water envelope. (Renamed Hampshire View Baptist)
94B-CLO-06: Sandy Spring Museum – Olney Sandy Spring Rd., Sandy Spring	RC W-1, S-1	CR 13-455; W-1, S-1 approved; consistent with master plan
<b>94B-DAM-02: Lutheran Church of the Redeemer</b> – Ridge Rd. (MD 27), Damascus	RE-2C S-1	CR 13-491; S-1 (for PIF use only) approved

### CATEGORY CHANGE REQUESTS INVOLVING PIFS SINCE 1996

Note: Category change requests shown in bold type were considered under the PIF policy requirements. Other requests were addressed through other policies such as public health problems, multi-use systems, and consistent with existing plans.

WSCCR No. - PIF User	Zone - Request	Action - Disposition -Comments
<b>95A-CLO-05: Se Me Hahn Presbyterian Church</b> – New Hampshire Ave. (MD 650), Cloverly	RE-2 W-1, S-1	CR 13-491; W-1, S-1 (sewer for PIF use only) approved
95A-PAX-01: Cedar Ridge Community Church – Spencerville Rd. (MD 198), Spencerville	RE-1, RC W-3, S-3	CR 13-491; W-3, S-3 conditionally approved for RE-1; W-3 conditionally approved for RC.
95A-PAX-03: Bethany Community Church – Riding Stable Rd, Burtonsville	RC W-1, S-1	CR 13-491: W-1, S-1 (sewer for PIF use only) approved.
<b>95A-URC-01: Korean United Methodist Church</b> – Muncaster Mill Rd. (MD 115), Derwood	RE-1 W-3, S-3	CR 13-491: W-3, S-3 <i>denied</i> .
95B-GMT-01: Germantown Baptist Church – Germantown Rd. (MD 118), Germantown	R-200 W-3, S-3	CR 13-491: Defer pending SW Germantown sewer study
		CR 13-1179: W-3, S-3 approved; within public w/s envelopes.
95B-PAX-03: Willard Marlow/PIF use not proposed – Spencerville Rd. (MD 198), Spencerville	RE-1, RC W-3, S-3	CR 13-491; W-3, S-3 conditionally approved for RE-1; W-3 conditionally approved for RC. Site now being considered for private school.
<b>95B-URC-01: Friends Meeting School</b> – Woodfield Rd. (MD 124), Gaithersburg	RE-2 S-3	CR 13-491: Deferred for special exception, then withdrawn.
96A-BEN-01: Cedarbrook Community Church – Piedmont Rd., Clarksburg	RDT W-1 multi-use	AD 97-1: W-1 (multi-use) approved.
<b>96A-CLO-01: Ashton United Methodist Church</b> – New Hampshire Ave. (MD 650), Ashton	RE-2 S-3	CR 13-692: Deferred pending financial study.
96A-GBG-02: Johns Hopkins University – Great Seneca Hwy., Gaithersburg	R-200 W-3, S-3	AD 96-4: W-1 & S-1 approved; site within public service envelopes.
<b>96A-PAX-04: Resurrection Baptist Church</b> – Sandy Spring Rd.. (MD 198), Burtonsville	RC W-1, S-3	CR 13-830: Deferred pending further PIF study. See 99A-PAX-01, below.
<b>96A-URC-01: Church of the Redeemer</b> – Woodfield Rd. (MD 124), Woodfield	RE-2 W-3, S-3	CR 13-830: W-1 and S-3 (PIF only) approved.
<b>97A-BEN-02: Cedarbrook Community Church</b> – Piedmont Rd., Clarksburg	RDT W-3, S-3	CR 13-1419: W-3 & S-3 (both PIF only) approved; abuts w/s mains.
<b>97A-CKB-02: Greenridge Baptist Church</b> – Frederick Rd. (MD 355), Clarksburg	R-200 W-1, S-3	CR 13-1038: W-1, S-3 (sewer for PIF use only) approved. PIF restriction removed during subsequent general map amendment.
97A-DNT-03: Circle School – Germantown Rd. (MD 118), Darnestown (relocating)	RC W-1 multi-use	AD 98-1: W-1 (multi-use only) conditionally approved; project never proceeded to completion.

### CATEGORY CHANGE REQUESTS INVOLVING PIFS SINCE 1996

Note: Category change requests shown in bold type were considered under the PIF policy requirements. Other requests were addressed through other policies such as public health problems, multi-use systems, and consistent with existing plans.

WSCCR No. - PIF User	Zone - Request	Action - Disposition -Comments
97A-FAL-01: Montgomery Chinese Christian Church – Sandy Spring Rd. (MD 198), Burtonsville	R-200 S-3	AD 98-1: S-1 approved; site within public sewer service envelope.
<b>97A-OLN-04: St. Andrew Kim Korean Catholic Church</b> – Baltimore Rd., Olney	RC W-3, S-3	CR 13-1419: W-1 & S-1 (both PIF only) approved.
97A-PAX-03: Tri-County Baptist Church – Laytonsville Rd. (MD 108), Damascus	RDT W-3 multi-use	AD 98-1: W-1 (multi-use) conditionally approved.
<b>97A-PAX-04: Noel Korean Baptist Church</b> – Sandy Spring Rd. (MD 198), Burtonsville	RC W-1, S-1	CR 13-1179: W-1 & S-1 (both PIF only) approved.
<b>97A-URC-02: Islamic Center of Maryland, Inc.</b> – Woodfield Rd. (MD 124), Gaithersburg	RE-2 W-3, S-3	CR 13-1038: W-3 and S-3 (PIF only) approved.
98A-CKB-03: Lakewood Church – Frederick Rd. (MD 355), Clarksburg	R-200 S-3	CR 14-334: Deferred; related to Clarksburg staging. Approved later as part of a general map amendment.
<b>98A-CLO-02: Yeshiva School of Washington</b> – Norwood Rd., Cloverly	RE-2 W-3, S-3	CR 13-1419: Withdrawn during the Council's review.
98A-DNT-02: Armenian Youth Center of Washington – Darnestown Rd. (MD 28), Darnestown	RC S-3 multi-use	CR 14-334: S-1 (multi-use) conditionally approved.
98A-GMT-02: U.S. Zen Institute – Liberty Mill Rd. (old MD 118), Germantown	R-200 W-3, S-3	AD 98-2: W-1 & S-3 approved; site within public w/s service envelopes.
<b>98A-OLN-08: Washington Waldorf School</b> – Emory Lane, Olney	RE-2/LDRC W-1, S-1	Withdrawn.
<b>98A-URC-01: Interdenominational Church of God</b> – Woodfield Rd. (MD 124), Gaithersburg	RE-2 S-3	CR 13-1419: S-3 (PIF only) approved.
99A-BEN-03: Garden of Remembrance Memorial Park – Comus Rd., Clarksburg	RDT; W-1 multi-use, S-1 multi-use	AD 2000-1: W-1 & S-1 (both multi-use) conditionally approved.
<b>99A-GWC-02: Roman Catholic Archdiocese of Washington</b> – Brink Rd., Germantown	RDT W-1, S-1	CR 14-451: W-3 and S-3 (both PIF only) approved.
<b>99A-OLN-02: Olney Boys &amp; Girls Club</b> – Olney Laytonsville Rd. (MD 108), Olney	RC?? W-3 & S-3	CR 14-451: W-3 and S-3 (both PIF only) approved.
99A-OLN-03: Olney Boys & Girls Club -- Olney Laytonsville Rd. (MD 108), Olney	RC-RDT?? W-1 multi-use S-1 multi-use	Withdrawn. (Public service approved, as above.)
<b>99A-PAX-01: Trinity International Church of God</b> – Sandy Spring Rd. (MD 198), Burtonsville	RC W-3, S-3	CR 14-334: W-1 and S-3 (PIF only) approved.
99A-PAX-04: Resurrection Baptist Church – New Hampshire Ave. (MD 650), Cloverly	RC S-6 multi-use	AD 2000-1: S-6 (multi-use) conditionally approved.
<b>99A-URC-03: Beth Messiah Congregation</b> – Muncaster Mill Rd. (MD 115), Derwood	RE-2 S-1	CR 14-632: S-1 (PIF only) conditionally approved; final

### CATEGORY CHANGE REQUESTS INVOLVING PIFS SINCE 1996

Note: Category change requests shown in bold type were considered under the PIF policy requirements. Other requests were addressed through other policies such as public health problems, multi-use systems, and consistent with existing plans.

WSCCR No. - PIF User	Zone - Request	Action - Disposition -Comments
		pending.
<b>00A-CKB-02: Christian Life Community &amp; other possible PIF</b> – Ridge Rd. (MD 27, Germantown)	RE-2 W-3, S-3	CR 14-819; W-3, S-3 (sewer for PIF use only) approved.
<b>00A-CLO-01: Victory Housing/Hampshire Village</b> – Norwood Rd., Cloverly	RE-2 W-1, S-1	CR 14-632: Deferred, then withdrawn; project relocated to site w/in sewer envelope.
00A-CLO-04: Little Sisters of the Holy Family – Olney Sandy Spring Rd. (MD 108), Ashton	RC S-1	AD 2000-8: S-1 (one hookup only) approved; abutting mains case.
<b>00A-DAM-07: National Senior Housing Corp.</b> – Howard Chapel Rd., Damascus	RE-2 (PD-5) W-3, S-3	CR 14-819; W-3 approved; sewer deferred pending rezoning.
<b>00A-DNT-01: Shaare Torah, Inc.</b> – Darnestown Rd. (MD 28), Darnestown	RE-2 S-3	CR 14-632: S-3 (PIF only) approved.
<b>00A-GWC-01: St. George Coptic Orthodox Church</b> – Warfield Rd., Goshen	RE-2 S-3	CR 14-632: S-3 (PIF only) approved.
<b>00A-OLN-02: Christ Fellowship Church</b> – Olney Laytonsville Rd. (MD 108), Olney	RDT W-3, S-3	CR 14-819: W-3 (PIF only) approved, <i>S-3 denied</i> .
00A-PAX-02 – Tri-County Baptist Church – Laytonsville Rd. (MD 108), Damascus	RDT S-6 multi-use	AD 2001-2: S-6 (multi-use) approved.
<b>01A-CLO-07: Lethbridge/PIF user not specified</b> – Ednor Rd., Cloverly	RE-2 W-3, S-3	CR 14-1481: Withdrawn; mixed PIF & residential uses proposed.
01A-DNT-02: National Seniors Housing Corp. – Darnestown Rd. (MD 28), Darnestown	R-200 W-3, S-3	AD 2002-1: W-1, S-1 approved; site within public w/s service envelopes.
<b>01A-GWC-02: TWS Land Barons/PIF user not specified</b> – Ridge Rd. (MD 27), Clarksburg)	RDT W-3, S-3	CR 14-: Deferred for PIF/CWSP update. CR 15-851: Deferred for current PIF study.
<b>01A-GWC-03: Farm Devel. Coop./4 PIF users not specified</b> – Brink Rd., Germantown	RDT W-3, S-3	CR 14-: Deferred for PIF/CWSP update. (4-lot “worshiplex”.) CR 14-: Deferred for current PIF study.
01A-OLN-02: Faith Presbyterian Church – Old Baltimore Rd., Olney	RE-2 W-3 multi-use	AD 2001-5: W-3 (interim multi-use) approved.
<b>01A-OLN-03: Our Lady of Good Counsel High School</b> – Batchellors Forest Rd., Olney	RE-2/RC W-3, S-3	CR 14-1153: W-3 and S-3 (both PIF only) approved.
01A-PAX-03: Capital Treasure Buddhist Society – Spencerville Rd. (MD 198), Spencerville	RE-1 W-1, S-3	AD 2002-1: W-1 approved, S-3 conditionally approved.
02A-BEN-03: Or Chadash Partners – Kings Valley Rd., Damascus	RDT W-1, S-1	CR 14-1481: S-1 approved for one hookup only.
<b>02A-BEN-04: Terrabrook Clarksburg/PIF</b>	RDT	CR 15-397: W-1, S-1 approved

### CATEGORY CHANGE REQUESTS INVOLVING PIFS SINCE 1996

Note: Category change requests shown in bold type were considered under the PIF policy requirements. Other requests were addressed through other policies such as public health problems, multi-use systems, and consistent with existing plans.

<b>WSCCR No. - PIF User</b>	<b>Zone - Request</b>	<b>Action - Disposition -Comments</b>
<b>user not specified</b> – Piedmont Rd., Clarksburg	W-3 & S-3	(single w/s hookups only); no PIF use approved.
02A-CLO-17: Sharp Street United Methodist Church – Ashton Rd. (MD 108), Ashton	RC W-1 & S-3	CR 15-397: W-1 approved, S-3 denied; no health problem found.
02A-GMT-01: Church of the Savior, Dayspring Farm – Brink Rd., Germantown	RDT; W-1 multi-use & S-1 multi-use	Pending/administrative: identification of existing multi-use systems only.
02A-POT-06: St. Luke Eastern Serbian Orthodox Church	RE-2 S-3	CR 13-397: S-3 approved, Potomac peripheral sewer service policy.
<b>03A-CLO-02: Christ Fellowship Church</b> -- New Hampshire Ave. (MD 650), Cloverly	RE-2 S-1	Withdrawn.
<b>03A-CLO-03: Lutheran Church of St. Andrew</b> – Norwood Rd., Cloverly	RE-2 W-1, S-1	CR 15-851: W-1 approved, S-1 (PIF only) approved w/ conditions.
<b>03A-OLN-03: Washington Christian School</b> – Batchellors Forest Rd., Olney	RE-2 W-3, S-3	CR 15-851: W-1 approved, S-1 (PIF only) approved.
<b>03A-PAX-02: Spencerville Seventh Day Adventist Church</b> -- New Hampshire Ave. (MD 650), Cloverly	RC S-3	CR 15-851: Deferred for current PIF study.
<b>03A-PAX-03: Ron Furman/PIF user not specified</b> – Columbia Pk. (US 29 relocated), Burtonsville	RC W-3, S-3	CR 15-851: Deferred for current PIF study.
03A-PAX-04 – Elderhome, Inc. – Columbia Pk (US 29), Burtonsville	RC W-3, S-3	CR 15-851: Deferred for current PIF study.
<b>04A-CLO-06: People's Community Baptist Church</b> – Norwood Rd., Cloverly	RE-2 W-1, S-1	Pending/Council: expansion of existing church
04A-FAL-04: New Hope SDA Church – McKnew Rd., Burtonsville	R-200 S-3	Pending/administrative: site w/in public sewer envelope – health case.
<b>04A-GWC-01: Seneca Creek Community Church</b> – Brink Rd., Germantown	RDT W-3, S-3	CR 15-851: Deferred for current PIF study.
<b>05A-BEN-02: Christian Life Center</b> – Frederick Rd. (MD 355), Hyattstown	RE-2 W-3, S-3	Pending/Council:
05A-OLN-01: Derwood Bible Church – Laytonsville Rd. (MD 108), Laytonsville	RDT; W-1 multi-use, S-1 multi-use	Pending/Council
<b>05A-OLN-02: Parker Memorial Baptist Church</b> – Norbeck Rd. (MD 28), Olney	RC W-1, S-1	Pending/Council
<b>05A-URC-01: Church of the Redeemer</b> – Woodfield Rd., Goshen	RE-2 W-1, S-1	Pending/Council

## **Appendix II – Survey of Other Maryland Jurisdictions**

Five Maryland jurisdictions were surveyed to see how they deal with institutional uses with regard to zoning and water and sewer planning. The jurisdictions surveyed were:

- Baltimore County
- Frederick County
- Harford County
- Howard County
- Prince George's County

### **1. What process does your jurisdiction use to approve public water and sewer service to specific properties?**

Baltimore County: Petitions for service are dealt with in an annual amendment process, although the Council can approve requests at any time. Requests are assembled by the Department of Public Works which, along with the Planning Department and Environmental Department makes recommendations to the County Executive. The County Executive transmits recommendations to the Council.

Frederick County: Currently, amendment requests are batched into two cycles a year. The Board of County Commissioners (BOCC) is considering doing four cycles per year due to concerns about making applicants wait so long between cycles. The requests must meet development review criteria to move from one water/sewer category to the next. Requests are heard by the Planning Commission for consistency with the Comprehensive Plan, and then by the BOCC on the merits. The properties are posted for each of these public hearings, which are advertised.

Harford County: Amendments to the plan are done twice per year. The Department of Public Works reviews requests from applicants. The Director of the Department of Public Works forwards the requests and its recommendations to the Council for public hearing and action.

Howard County: Amendments to the plan are done as needed. The Department of Public Works reviews requests from applicants and can approve certain non-controversial requests within the "Metropolitan District" (water and sewer envelope). Other requests must go to the County Council.

Prince George's County: Amendment packages for requests for service are done three times per year. The Department of Environmental Resources reviews requests on behalf of the County Executive. The County Executive forwards his recommendations to the Council. Park and Planning provides its recommendations to the Council as well.

### **2. Do you have an established water and sewer "envelope" and if so, do your approval processes vary based on whether a request for service is in the envelope or outside the envelope?**



Baltimore County: Yes. The County has an “Urban/Rural Demarcation Line” (URDL) defined by zoning. Public water and sewer is generally assumed inside the line and not assumed outside the line. The Council has made some exceptions (to serve failing systems for instance) and there are pressures to approve service on the edges of the line.

Frederick County: No contiguous "envelope" the way some Counties have. We have twelve incorporated towns and some unincorporated growth areas which have Growth Limit Lines established through the County Comprehensive Plan and their Master Plans. These establish the Future Water & Sewer Service Areas. Outside of those, there is No Planned Service. No difference in process, except that there is no service out there to connect to, and only Multi-use systems would occur outside the Future WS Service Areas.

Harford County: Yes. Exceptions to provide service outside the envelope require legislation and are rare.

Howard County: Yes. It is called the “Metropolitan District.” Within the envelope, service is provided assuming the request is consistent with existing plans or is needed to address public health problems. Outside the district, properties that have on-site system failures and are within 1 lot of a main can get a single-hookup. Requests beyond this must go through a County Council process to formally extend the Metropolitan District boundary. This occurs rarely (although a Church in Clarksville was approved in this manner).

Prince George’s County: Yes. It's based on topography, major roads, and zoning. We do not approve category changes to public systems outside the envelope (one exception). We encourage the use of shared facilities outside the envelope (shared facilities must be operated by a public entity -often MES - and must have enhanced nitrogen removal)

**3. What determines whether a parcel is served by public water and sewer or not? How do your master plans, zoning ordinance, Water and Sewer Plan, and/or any other documents relate to one another and/or affect category change reviews and approvals?**

Baltimore County: The zoning of a property is the primary determinant of whether a property gets service. The URDL is based on the zoning patterns in the County. Master Plans are considered advisory documents but are consistent with the URDL designation.

Frederick County: The Comprehensive Plan. See the requirements for classification change in Chapter 1 attached. Gross shorthand: Comp Plan delineates a Future Service Area, staff assigns "5"; applicant gets appropriate zoning, preliminary engineering comes up with a concept of how he will extend service from where it ends now, to where he wants it, BOCC approves "4"; applicant does engineering, gets development review like a Site Plan or Subdivision Plan, refines Improvement Plans, passes APFO, BOCC approves "3"; applicant may then purchase taps and apply for building permits.

Harford County: The Water and Sewer Service Area boundary (envelope) is the key factor. If a parcel is not located within the envelope, it may not be served by public water and sewer.

Howard County: The Metropolitan District boundary is the key factor. The zoning, area master plans, and Water and Sewer Plan are closely coordinated to ensure consistency across all plans.

Prince George's County: The 2002 General Plan adopted our Sewer Envelope as the boundary for the Rural Tier. All land in the rural tier is zoned for 2-acre or 5-acre parcels. The Water and Sewer Planning staff participates in the preparation of the Master Plans, and assures consistency with the two. We have started acknowledging that there are two types of Master Plans: Area Master Plans (zoning, land use etc for a subregion of the County) and Functional Master Plans (Water and Sewer, Solid Waste, Transportation, Housing, Green Infrastructure etc.) Using this terminology, has helped us do better coordination. Also all category changes and Water and Sewer Plan amendments are sent for M-NCPPC referral.

**4. Are you seeing many applications for service outside or on the edge of your “envelope” especially by institutions (for instance churches, schools, day care centers). If so, why (i.e. cheaper land, larger lots available)?**

Baltimore County: There has been a trend toward more requests for service outside the URDL in recent years. There also appears to be a trend toward larger, more regional size church developments both within the URDL and outside. Cheaper land and larger lots are probably a major reason churches locate outside the URDL. There have also been a number of requests to extend service to address failing on-site septic systems or wells.

Frederick County: Yes, we have seen churches and other institutions looking for cheaper land and more acreage that is available outside service areas. We don't have trouble with day care, in particular, but with nursing homes and private schools and their variations. Part of the "problem" arises because these uses are permitted in the Agricultural/Rural zoning, so zoning is not forcing them to look inside the "envelope" to begin with. These proposed buildings need to be sprinklered which is sometimes an expensive ordeal on a well supply. Also, other services like fire, ambulance, distance to hospital, public transportation, may not be readily available in the rural areas. The uses occur in various sizes and intensities. Small churches, small schools, small nursing homes generally are not a problem in rural areas. Mega versions of any of these uses are a problem. We had a consultant draft a zoning ordinance several years ago that distinguished between intensities of these uses and specified things like what classification of road it could be located on, etc. depending on size, but that ordinance was rejected for other reasons.

Harford County: Occasionally we get inquiries; (for example a soccer facility and some churches). However, public water and sewer has not been allowed out of concern that it would set a precedent for others to ask.

Howard County: Occasionally, although the reluctance of the Council to extend the Metropolitan boundary probably keeps the requests down as well. Institutions, such as churches, are looking to expand and often must leave properties within the Metropolitan boundary to do so. However, they must utilize on-site systems on these new rural parcels.

Prince George's County: One application to adjust the envelope boundary and approve a category change took place in 2003. Another residential category change was approved adjacent to a subdivision left in category 3 outside the envelope. The envelope boundary was not changed for that case. We haven't seen many applications outside the envelope.

**5. How are requests for service for institutional uses addressed? Are there special policies to address these issues in your Water and Sewer Plan or elsewhere?**

Baltimore County: Institutional requests are treated like commercial properties. There are no special policies dealing with institutional uses. Institutional uses outside the URDL build on multi-use systems and are constrained by what on-site systems can support.

Frederick County: No special policies. Outside the service areas, institutions may apply for permission to build multi-use (large) systems. In this case, they must deal with MDE for appropriation permits and discharge permits. Other than those, private community plants (shared systems that serve multiple lots) are not permitted. Frederick County has encountered problems including bankruptcy and lack of maintenance, and had to take some of these systems over in the past.

Harford County: There are no special policies in the Water and Sewer Plan dealing with institutional uses.

Howard County: There are no special policies in place to address institutional uses.

Prince George's County: The Water and Sewer Plan has no special provisions for private institutional uses (such as churches or private schools). But we do have a "Public Use Allocation Policy" that states that any public entity (local, State, or Federal) must apply for the Public Use Allocation in addition to the category requirements. In some cases, public facilities may be approved for public service in areas not otherwise intended to be served.

**6. What kind of environmental controls do you have in place in your rural zones (1 acre lots or greater) to mitigate the added density possible with water and sewer service?**

Baltimore County: Except in Chesapeake Bay Critical Areas, there are no special environmental controls in place by zone. Stormwater management, stream valley buffers, reforestation issues, and well and septic suitability are limitations on what can be built on a site.

Frederick County: Our Agricultural zone allows lots as small as one acre if you can get it to perc, but each parcel (farm) is only permitted three off-conveyances from the remainder, one time. Those lots have no further subdivision rights. In general, water & sewer service is not considered appropriate nor permitted in the Agricultural zone. Ditto Resource Conservation zone, except there the minimum lot size is 5 acres. There is no limit on the number of lots which can be created, except you usually can't build new roads to serve the subdivision, there is a limit on "tiers" of lots, you can't subdivide if you don't have fee simple access to a road,

and you can't build in a floodplain. Septics are not permitted on slopes over 25%, so that somewhat protects the mountain areas.

Because our growth areas are separated from each other and often from the water source or sewage treatment plant, we devised a "Denied Access" designation for the transmission lines that cross the Agricultural/Conservation zones. The "denied access" stops when it gets to the growth area boundary. There are very few exceptions to denied access: a health problem with an existing structure, for instance. Major assaults have been mounted to this concept from time to time. Most requests for amendments to add exceptions have been successfully denied, because they are not consistent with the Comprehensive Plan growth areas, either. In addition, allowing access to the lines via an exception, could result in the planned capacity not being available later for the growth area it was based on.

Harford County: From a zoning perspective, most institutional uses are permitted by right or special exception in all but the most intense industrial zoning districts. There are specific minimum parcel/lot size requirements for all these uses, however the size is generally unrelated to whether there are public facilities available or they will be utilizing private well and septic. Other environmental constraints (such as wetlands, streams, wet soil) may preclude development in certain areas, however that is applicable for all uses. Private utilities and shared systems are prohibited so rural zone development must develop on "on-site" systems.

Howard County: Not an issue, since areas outside the Metropolitan Boundary are not served. Therefore, institutions are limited by on-site issues (such as septic suitability, stream valleys, stormwater management requirements, forestation requirements, etc.). Clustering of housing is done on occasion in rural zones on "shared systems." These have proven to be problematic in terms of maintenance, which is the responsibility of the Department of Public Works (although paid for by the beneficiaries).

Prince George's County: There are no special environmental controls but the General Plan sets good goals and policies in the Rural Tier. We are also in the process of updating our Water and Sewer Plan and some issues along the edge of the sewer envelope (abutting mains exceptions for instance, may be clarified.

**7. Are places of worship (or other uses) allowed in all zones (including rural zones)? If so, is a special exception required? What restrictions (if any) currently exist with regard to places of worship wishing to locate in rural zones?**

Baltimore County: Places of worship are permitted in all zones and are treated as commercial projects in terms of development review. The restrictions that apply in the rural zones for places of worship are the same for all facilities and include: well and septic suitability, stormwater management, stream valley buffers, reforestation, etc...

Frederick County: Places of worship are allowed in all zones with Site Plan approval. If they are in a Future service area, they have to go through the WS Plan amendment process, the same as any other applicant if they want service, or if they are in Category 5, can use well

and septic until service becomes available. If they are outside a future service area, they may go through the WS Plan process for permission to build a Multi-use water and/or sewage treatment system, or they can build on well and septic. The expense of a multi-use plant (or the lack of an appropriate stream) probably keeps them from asking for those very often. It is usually the school or camp that asks for those. We have plenty of churches on wells and septic systems in our rural areas.

Harford County: Places of worship are permitted by right in every zoning district except Light Industrial (LI) and General Industrial (GI). There is no mechanism to permit those uses in the LI and GI in the Harford County Code. In the rural areas (AG and RR zoned), institutional uses must be on parcels/lots of more than 2 acres.

Howard County: Places of worship are permitted uses but require special exceptions in many zones (including rural zones). Water and sewer is not provided to places of worship or any other institutional use (such as public schools for instance) outside the Metropolitan District.

Prince George's County: Places of worship are permitted by right in every zone but must develop with on-site systems if outside the envelope.

**8. Does your jurisdiction use impervious area caps or any other environmental requirements to minimize the environmental impacts of development in certain zones?**

Baltimore County: No, except for some restrictions in the Chesapeake Bay Critical Areas and controls mentioned before (such as stormwater management, stream valley buffers, etc...).

Frederick County: We do not have impervious area caps. The Forest Resource Ordinance (FRO) helps by requiring some portion of the site to be planted. It is our practice to require FRO plantings on-site for the most part. We also require on-site stormwater management, which equates to a certain amount of open space, too, unless they put it underground. Our floodplain regulations are stricter than the State's, and we legislatively defined wetlands as having to comply with those floodplain regulations too. We included historic floodplains with only slightly less strict regulations. Other than that, we just have environmentally friendly design guidelines which we try to encourage. Some of them our Planning Commission will insist on--like planting islands in parking lots.

Harford County: There are no impervious area caps in the rural zones. Impervious area in rural zones is dictated by the ability to provide stormwater quantity and quality management. However, in the business and commercial zones, there are maximum impervious area caps of 80 to 85 percent.

Howard County: No.

Prince George's County: We do not have impervious area caps in the rural zones or other unique requirements in the rural zones.

### **Appendix III – Planning Board Zoning Text Amendment Transmittal Letter (April 2004)**

An April 22, 2004 memorandum from Planning Board Chairman Derick P. Berlage to then Council President Steven A. Silverman is attached (©1-19). This memorandum transmitted a proposed zoning text amendment pertaining to total impervious surface in large lot residential and agricultural zones.

#### **Appendix IV - April 13 Public Forum Testimony and Other Correspondence**

The Working Group held a public forum on April 13, 2005 in the 3<sup>rd</sup> Floor Hearing Room of the Council Office Building. The forum was well-attended and 30 people spoke. The list of speakers is attached as is written testimony provided by the speakers. In addition, written correspondence was received before and after the forum and is attached.

A large volume of correspondence was received regarding plans by the Derwood Bible Church to build a 1500 seat church with other facilities on an RDT-zoned site near the Town of Laytonsville. A sampling of these letters has been included.

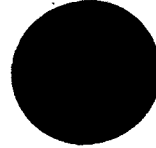
The Public Forum cover document (©1-5) was provided to interested groups and individuals prior to the public forum as a way to explain the purpose of the Working Group and the options being considered. A speakers list is attached on ©6 with the written testimony received immediately following (©7-55). Correspondence received subsequent to the Public Forum is attached beginning on ©56.

zoning



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION  
Office of the Chairman, Montgomery County Planning Board

April 22, 2004



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RECEIVED  
MONTGOMERY COUNTY  
COUNCIL

The Honorable Steven A. Silverman, President  
Montgomery County Council  
Stella B. Werner Council Office Building  
100 Maryland Avenue, Room 501  
Rockville, Maryland 20850

Re: **Planning Board Recommendation on Transmittal to County Council for Introduction of Zoning Text Amendment to limit impervious surface in the RDT, Rural, Rural Cluster, RE2 and RE1 zones and reduce maximum building coverage in the RE2 zone.**

Dear Mr. Silverman and Council members:

On April 15, 2004, by a vote of 4-0, the Board recommended that a text amendment pertaining to total impervious surface in large lot residential and agricultural zones be transmitted to the County Council for introduction, as depicted in Appendix 1.

### Background

#### Current Law

The current law does not have any impervious surface limit in the large lot residential or the agricultural zones. Under particular circumstances, the Comprehensive Water and Sewerage Plan permits the extension of water and sewerage service to these zones even when such extensions are not recommended by the approved and adopted Master Plan. The combination of these two factors leads to unanticipated high levels of impervious surfaces in the rural zones of the County.

#### Proposed Zoning Change

The proposed ZTA limits total impervious surface to 20% of the lot area in the Rural, Rural Cluster, RE2 and RE1 (excluding RE1 cluster) zones and 15% in the RDT zone. It would also limit the building coverage maximum in the RE2 zone to 15% (the maximum is currently 25%). The basis for the recommended limit is the median coverage of existing private institutional facilities, as depicted in the following table.





Zoning	Standard lot size in acres	Average % Existing Impervious (Built lots)	Median % Existing Impervious For Private Institutional Uses	Proposed % Impervious Limits	Example of proposed Impervious acreage limits using standard lot size
RDT	25	5%	14%	15%	3.75
Rural	5	6%	N/A	20%	1.0
RC	5	6%	19%	20%	1.0
RE2	2	9%	22%	20%	0.4
RE1	1	11%	21%	20%	0.2

Reason For Proposed Zoning Text Change

The proposed zoning text amendment was initiated to address issues raised with County Council at the adoption of the Comprehensive Water and Sewerage Plan in November of 2003. Development with high surface area coverage in the large lot residential and agricultural zones is contrary to the goal of protecting water quality. Some Council members expressed the idea that the environmental protection aspects of large lot residential and agricultural zones were best addressed in a zoning text amendment rather than changes to the then proposed Water and Sewerage Plan. Appendix 2 of this letter is the staff report reviewed by the Planning Board, which fully explains the development experience with these zones and options considered by staff. Appendix 3 illustrates how some existing development is both above and below the impervious limits proposed.

Members of the Planning Board and staff of the Department of Park and Planning are available to assist the Council in the review of the proposed text amendment necessary to implement our recommendations.

Sincerely,



Derick P. Berlage  
Chairman

DB:JZ:ss  
Attachments

cc: Planning Board  
Charles R. Lochr

## APPENDIX 1

Zoning Text Amendment No:  
Concerning: Total Lot Coverage  
Requirements for the RE-2, RE-1, Rural, RC  
& RDT Zones  
Draft No. & Date: 8 – 04/05/04  
Introduced: N/A  
Public Hearing: N/A  
Adopted:  
Effective:

Ordinance No:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND  
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF  
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN  
MONTGOMERY COUNTY, MARYLAND**

By:

AN AMENDMENT to the Montgomery County Zoning Ordinance for the purpose of:

establishing definitions for the terms “total lot coverage” and “impervious surface”, reducing the building coverage requirement for the RE-2 Zone and establishing maximum total lot coverage requirements for the RE-2, RE-1, Rural, RC and RDT Zones.

By amending the following section of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 59-A-2	“DEFINITIONS AND INTERPRETATION”
Section 59-A-2.1	“Definitions”
DIVISION 59-C-1	“RESIDENTIAL ZONES, ONE-FAMILY”
Section 59-C-1.32	“Development standards”
DIVISION 59-C-9	“AGRICULTURAL ZONES”
Section 59-C-9.4	“Development standards”

**EXPLANATION:** *Boldface indicates a heading or a defined term. \**  
*Underlining indicates text that is added to existing laws by the original text amendment.*  
*[Single boldface brackets] indicate text that is deleted from existing law by the original text amendment.*  
*Double underlining indicates text that is added to the text amendment by amendment.*  
*[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.*  
*\* \* \* indicates existing law unaffected by the text amendment.*

**ORDINANCE**

*The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:*

1           **Sec. 1. Division 59-A-2 is amended as follows:**

2  
3       **DIVISION 59-A-2. DEFINITIONS AND INTERPRETATION.**

4       \* \* \*

5       **Sec. 59-A-2.1. Definitions.**

6       In this Chapter, the following words and phrases have the meanings indicated:

7       \* \* \*

8       **Impervious Surface:** A hard surface area that prevents or substantially impedes the  
9       natural infiltration of water into the underlying soil, resulting in an increased volume and  
10      velocity of surface water runoff.

11  
12      **Lot coverage, total:** The area of a lot that is occupied or covered by impervious surface  
13      including buildings, roadways, driveways, parking, sidewalks, patios, courts for sports  
14      activities, and all other impervious surfaces.

15  
16           **Sec. 2. Division 59-C-1 is amended as follows:**

17  
18       **DIVISION 59-C-1. RESIDENTIAL ZONES, ONE-FAMILY.**

19       \* \* \*

20       **59-C-1.32. Development standards.**

21  
22       In addition to the following, the regulations in sections 59-C-1.34, 59-C-1.35 and 59-C-  
23       1.36 shall apply:

	RE-2 <sup>1</sup>	RE-2C <sup>1</sup>	RE-1 <sup>1</sup>	R-200	R-150 <sup>3</sup>	R-90	R-60	R-40 <sup>2</sup>	R-4plex	RMH 200
<b>59-C-1.328. Coverage.</b>										
-Maximum percentage of net lot area that may be covered by buildings, including accessory buildings:	[2]15 <sup>***</sup>	25	15 <sup>***</sup>	25	25	30	35	40		25
* * *										
-Total lot coverage as defined in Section 59-A-2.1 (as a maximum percentage of the net lot area):	20 <sup>*</sup>		20 <sup>**</sup>							

\* \* \*

\* Any use that lawfully existed on a site prior to (the effective date of the ZTA), and included a total lot coverage, as defined in Section 59-A-2.1, greater than 20% of the net lot area is a conforming use but must not be extended or enlarged.

\*\* Total lot coverage requirements do not apply to cluster development.

\*\*\* If building coverage for a proposed development not requiring special exception approval exceeds 8.5% in the RE-2 Zone and 11% in the RE-1 zone, a site layout design must be submitted to the Department of Permitting Services depicting the total lot coverage of the development, as defined in Section 59-A-2.1, prior to the issuance of a building permit.

\* \* \*

Sec. 3. DIVISION 59-C-9 is amended as follows:

**DIVISION 59-C-9. AGRICULTURAL ZONES.**

\* \* \*

1    **59-C-9.4. Development standards.**

2    The following requirements apply in all cases, except as specified in the optional  
3    standards for cluster development set forth in sections 59-C-9.5 and 59-C-9.57 and the  
4    exemption provisions of section 59-C-9.7.

5    \* \* \*

6

	Rural	RC	LDRC	RDT	RS	RNC
* * *						
<b>59-C-9.46. Maximum Lot Coverage.</b>						
-No more than this percentage of the net lot area may be covered by buildings, including accessory buildings. <sup>2</sup>	10 <sup>***</sup>	10 <sup>***</sup>	10	10 <sup>***</sup>	10	10
-Total lot coverage as defined in Section 59-A-2.1 (as a maximum percentage of the net lot area):	20 <sup>*</sup>	20 <sup>*</sup>		15 <sup>**</sup>		

7

8

9    \* \* \*

10

11    \* Any use that lawfully existed on a lot or tract prior to (the effective date of the ZTA),  
12    and included a total lot coverage, as defined in Section 59-A-2.1, greater than 20% of  
13    the net lot area is a conforming use but must not be extended or enlarged.

14

15

16    \*\* Any use that lawfully existed on a lot or tract prior to (the effective date of the  
17    ZTA), and included a total lot coverage, as defined in Section 59-A-2.1, greater  
18    than 15% of the net lot area is a conforming use but must not be extended or  
19    enlarged.

20

1 \*\*\* If building coverage for a proposed development not requiring special exception  
2 approval exceeds 3% in the Rural and RDT Zones and 7.5% in the RC Zone, a site  
3 layout design must be submitted to the Department of Permitting Services  
4 depicting the total lot coverage of the development, as defined in Section 59-A-2.1,  
5 prior to the issuance of a building permit.

6  
7 \* \* \*

8  
9 **Sec. 4. Effective date.** This ordinance becomes effective 20 days after the date of  
10 Council adoption.

11  
12 This is a correct copy of Council action.

13  
14  
15  
16 \_\_\_\_\_  
17 Mary A. Edgar, CMC

18 Clerk of the Council  
19  
20  
21  
22



MCPB  
Item # 11  
04/15/04

April 9, 2004

## MEMORANDUM

**TO:** Montgomery County Planning Board

**FROM:** Jeff Zyontz, <sup>8/</sup>Chief  
Countywide Planning Division

**SUBJECT:** Zoning Text Amendments Limiting Impervious Coverage in the RDT, Rural, Rural Cluster, RE-2 and RE-1 Zones

**Recommendation:** Approval to Transmit Zoning Text Amendment to the District Council for the RDT, Rural, Rural Cluster, RE-2 and RE-1 Zones which limits impervious surface and reduces maximum building coverage in the RE-2 zone for introduction.

**Summary:** Allow impervious surfaces in the RDT up to 15% of the lot area. Allow impervious surfaces up to 20% of the lot area in the Rural, Rural Cluster, RE-2 and RE-1 zones. Reduce the maximum building coverage allowed in the RE-2 zone to 15% of the lot area from 25%. Retain all permitted uses in these zones. Do not change the uses that require special exceptions.

## Background

All Master Plans that are on the edge of the sewer envelope make recommendations on the extent of the areas that should be served by community water and sewer infrastructure. The area, in which water and sewer service is provided, is sometimes referred to as the sewer envelope. Development that is on community sewer can be more intensive than development using individual septic systems. Septic systems require soils that absorb water and septic field sizes that expand with the amount of wastewater. More often than not, the amount of development that can be adequately served by a septic system is significantly less than the maximum density permitted by the Zoning Ordinance. Master Plans use the existing tools of zoning and limiting the sewer envelope to implement efforts to preserve the natural environment and rural character of wedge areas of the County. The natural environment includes the water quality and biological habitat of stream in Montgomery County. To protect these areas a number of Master Plans recommend RDT, Rural, Rural Cluster, RE-2 and RE-1 zoning in combination with recommendations to limit the sewer envelope.

18  
9



Master Plans are guides for the future but all recommendations in Master Plans are not implemented through a single adoption process. Although the zoning recommendations of the Master Plan are implemented through a sectional zoning map amendment following the Plan's adoption, the water and sewer envelope recommendations are implemented through changes to the Comprehensive Water and Sewerage System Plan.

Unanticipated consequences occur when properties not recommended for sewer service in a Master Plan, then get community sewer service. Community water and sewer can accommodate significantly more development than development dependent upon septic systems. The Comprehensive Water and Sewerage System Plan defines Private Institutional Facilities as "buildings constructed for an organization which qualifies for a federal tax exemption under the provisions of Section 501 of Title 26 of the United States Code (Internal Revenue Service)." Typically the qualifying organizations build such structures as school, buildings for worship, and philanthropic institutions. Private institutional facilities (PIF) have a preferred status for sewer extension in the recently adopted Comprehensive Water and Sewerage System Plan, even when they are on areas not recommended for community sewer service.

Large lot residential zones are for the most part used for residential and agricultural purposes, however the zones also permit non-residential uses (identified in this memo) that can be private institutional facilities. Private institutional facilities have a significant public purpose that the Montgomery County Council wishes to reinforce through permissive policies. There are limited areas where sewer service can be provided where the extension does not cross an intervening property. The results of institutions using this policy are clusters of sites along the edges of the sewer envelope, resulting in a high percentage of imperviousness in areas that were planned to be environmentally friendly and a continuation of rural scale development.

Single-family homes and a number of private institutional facilities are allowed unconditionally, in residential zones. The Zoning Ordinance, which was developed with the knowledge that a significant portion of rural zones and the agricultural zone would be outside of the sewer envelope, does little to control impervious surface coverage.

There are limits on building coverage in the Zoning Ordinance. These need to be examined in the RE-1, RE-2, Rural, Rural Cluster, and RDT zones in light of the County's heightened concern for water quality. The existing building coverage limit continuum between zones is contrary to the density of the zones themselves. The RE-2 zone, which allows half the residential density of RE-1 (two acres for each house compared to one acre for each house), has a maximum building coverage of 25% (that would be a structure with foundation enclosing almost 22,000 square feet) while the RE-1 zone would permit building coverage of 15 % (a foundation enclosing 6,500 square feet). Moreover, there are no limits on impervious coverage. Impervious surfaces includes buildings, driveways, parking, patios and other asphalt / concrete covered land where water cannot infiltrate into the soil. The zoning text amendment being proposed uses the phrase total lot coverage to include all impervious surface area.

The County Council made clear that it did not want the Comprehensive Water and Sewerage System Plan to be encumbered with restrictions relating to the development standards. In November 2003, the County Council directed the Planning Board to address concerns about

the land coverage of private institutional facilities (raised in Planning Board recommendations), by recommending changes to the Zoning Ordinance. The County Council also desired a series of options to address the problem raised by the Planning Board.

## Context

The zoning pattern in Montgomery County is the implementation of the General Plan for Montgomery County. The wedges and corridor plan sets apart the agricultural and residential wedges for low-density treatment. The agricultural wedge is described in the approved and adopted General Plan Update as "clean air shed" and "a mechanism to protect the quantity and quality of water resources." One of the challenges for the residential wedge is "protecting environmentally sensitive areas."

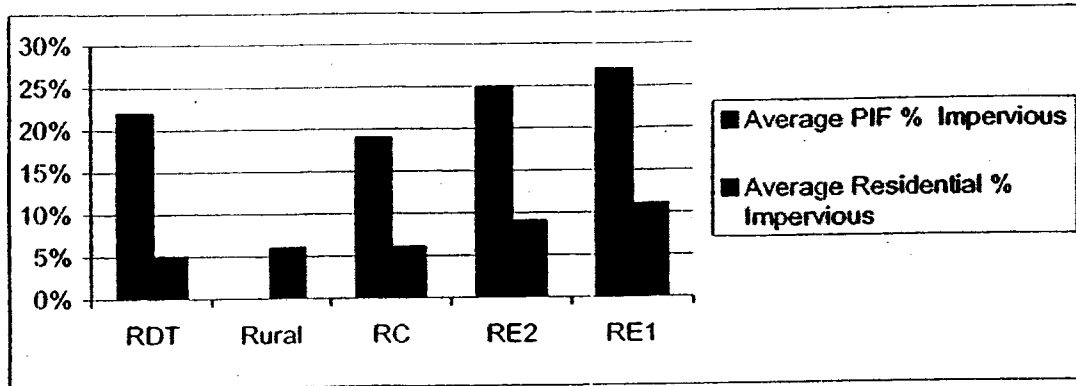
There are relatively few zones which have areas outside of the sewer envelope: Rural Density Transfer (RDT), Rural Cluster (RC), Rural, Residential Estate 2 Acre (RE-2), Residential Estate 1 Acre (RE-1). The zones with "Rural" in their name are found in the agricultural section of the Zoning Ordinance. The residential estate zones are found in the residential section of the Ordinance. The vast bulk of these zones are being used for agricultural or residential uses. The most recent Council action on the Upper Rock Creek Master Plan, supports the concept that limiting impervious cover beyond the existing limitations in the RE-1 and RE-2 zones, from all land uses, is necessary to protect water quality.

As noted above, there are no impervious surface limits (total lot coverage limits) in these existing zones for any uses. (There overlay zones that do limit impervious surface in some areas.) Private institutional facilities (PIF), in particular, represent a highly intensive land use, particularly in comparison to other uses in the zone. More than 78% of large lot zoning capacity has already been used. Limitation on these zones if adopted, would at most affect the remaining 22% of the development capacity of these zones. Where development relies upon septic systems, the actual number of dwelling units that can be accommodated is significantly less than the maximum density allowed. The provision of sewer enables development to reach maximum zoning capacity. The estimate of potential dwelling units takes these factors into account.

Zoning	Total Acres	Existing Dwelling Units	Average % Existing Impervious (Built lots)	Average Acres Per Dwelling Unit	Potential Additional Dwelling Units	Acres Of PIF's	Average PIF % Impervious
RDT	103,067	3,318	5%	20	1,605	138	22%
Rural	2,756	201	6%	5.3	132	0	N/A
RC	23,876	3,492	6%	6.25	941	333	19%
RE-2	32,938	6,600	9%	3.8	1,806	709	25%
RE-1	10,522	5,131	11%	1.7	1,004	123	27%



**Average Impervious Surface on Developed Lots  
for Residential and Private Institutional Facilities  
in the RDT, Rural, Rural Cluster, RE-1 and RE-2 Zones**



The Zoning Ordinance does not have any corresponding definition to private institutional facilities that exists in the Comprehensive Water and Sewerage System Plan. The Zoning Ordinance does, however, have specific permitted uses, which could fall within the Comprehensive Water and Sewerage System Plan's definition of "private institutional facilities."

The following uses now permitted unconditionally in the Zoning Ordinance in the wedge zones also fit with the private institutional facility definition:

- Fire Station (publicly supported),
- Opportunity housing projects (not permitted in RDT, RC or Rural),
- Library and museums (not permitted in Rural or RDT zones),
- Churches, convent, monastery and/or other places of worship.

Other charitable or philanthropic institutions are generally allowed through the special exception process. The private institutional uses that require special exceptions include:

- Housing for senior adults or persons with disabilities,
- Life care facility,
- Charitable or philanthropic institutions,
- Child day care center,
- Day care facility for more than 4 senior adults and persons with disabilities,
- Domiciliary care home for more than 16 residents,
- Educational Institutions, private
- Hospice care facilities,
- Hospitals,
- Nursing home,
- Private clubs and service organizations.

In the agricultural zones, charitable institution can only be allowed in existing buildings. When this memo refers to private institutional uses, it is referring to the list of uses above.

## Scope

The zones in question comprise over 24,133 parcels of land, that add up to 173,160 acres of land. There is no problem of excessive impervious surfaces on 99.5% of the developed parcels in these zones.

The severity of the impacts is related to the scale of the project relative to the size of the parcel and the concentration of impervious surface. It is not related to the use. A large-scale single house with long driveways can have more impervious surface than a small-scale institutional use. The proposed zoning amendment applies to all uses in these zones.

There are currently a total of 78 PIF's in all zones being discussed herein. These 78 sites use just under 1,303 acres of land. The institutional facilities in these zones represent 0.74% of the total area of the zones in question. The greatest percentage of private institutional facilities occurs in the RE-2 zone (2.2%). Although it affects few property in the aggregate, when private institutional facilities cluster together (as required by the Comprehensive Water and Sewerage System Plan), there are significant impacts to water quality and the rural character of the area. **Staff does not recommend only having impervious standards for private institutional uses.** Any limitation on impervious surface should include all uses in the zone.

All land uses including, private institutional facilities are already subject to impervious limitations in the Upper Paint Branch Special Protection Area. That limitation is part of the restrictions in an overlay zone that covers the Upper Paint Branch Watershed. The proposed Special Protection Area in Upper Rock Creek will have an 8% impervious surface limit. The recommendations herein would not change the overlay zone controls. The approved and adopted Functional Master Plan for the Patuxent River Watershed includes limits on the impervious surface of new developments (those that are required to go through the subdivision process) to 10%. A portion of the Clarksburg SPA has an impervious limit established in the Clarksburg Master Plan. Staff does NOT recommend changing those limitations in any way.

## Options

Zoning is a flexible tool for controlling development. There is a continuum of controls, which can be brought into play. The options can run from prohibiting uses, to requiring a special exception, requiring a site plan, to limiting the height, bulk or setbacks of buildings and parking to limiting total lot coverage to make no changes. The following reviews those options and highlights the advantages and disadvantages of pursuing those options. They begin with the most restrictive option and proceed toward the least restrictive option.

## Prohibition

The County Council certainly has the power to prohibit any particular use from any particular zone. Private institutional facilities are not so great a problem, however, that staff would recommend prohibiting them from the zones in question. They help to make a community fully functional for its residents. They exist successfully on both septic systems and on public sewer. The concern raised by the Planning Board questions the scale of projects relative to their lot size. Even in the agricultural zones, the scale of use relative to the site can be compatible with the character of the landscape and environmental protection. It has been the tradition of Montgomery County to be permissive of private institutional facilities. In staff's view, it is not any particular private institutional use that is a problem. *Staff would therefore not recommend prohibiting any of these uses from any of the zones in question.* The problem being addressed is the environmental effects of concentrated impervious surfaces. Any land use can have a positive or negative effect.

## Private Institutional Use Floating Zone

A zone could be crafted to permit private institutional uses that "floats" above the zoning on the ground after a Master Plan. The zone could then "land" as approved by the County Council, according to the criteria set out in the zone itself. Zoning entails a much higher level of public scrutiny than water and sewer category changes. The hearing examiner process permits the documentation of all testimony.

If private institutional uses were prohibited in some zones, then there would be advantages to having such as zone. *Staff does not recommend a floating zone* for the following reasons: 1) Staff is NOT recommending prohibiting these uses from any zone, 2) Crafting such a zoning would be complex in determining the findings necessary to apply the zone, and 3) This approach would not comprehensively address impervious surfaces in existing rural zones.

## Special Exceptions

A zone allows most land uses unconditionally. Some land uses require applying for and receiving approval from the Board of Zoning Appeals to be allowed. This application is required for a "special exception". A number of private institutional uses such as "Charitable or philanthropic institutions" are already special exceptions in the zones of concern. The development community considers the special exception process a burden. The submission requires developing data about the proposal and its impacts. It requires a public hearing. It can require the additional submission of a site plan as a condition of approval. It can be denied for a variety of reasons including non-conformance to the adopted Master Plan. Specific standards of findings can also be established.

## Special Exception Options

- 1) Make all private institutional facilities special exceptions within the agricultural and rural zones

At present, the following land uses do not require a special exception:  
fire station (publicly supported), opportunity housing projects (not permitted in RDT, RC or Rural), library and museums (not permitted in Rural or RDT zones), churches, convent, monastery and/or other places of worship.

*Staff does not recommend this option. Making all non-residential uses go through the special exception process creates a greater burden than necessary to achieve the desired results.*

- 2) Of the uses that require special exceptions, create development standards to avoid clustering with each other ("no new special exceptions shall be approved unless there are less than X number of other special exceptions within an X mile radius of the applicant")

*Staff does not recommend this option. The very nature of the Council policy on extending sewer tends to concentrate private institutional uses.*

- 3) Limit the impervious surface coverage of any future special exception in the zones being reviewed.

*Staff recommends this option. As special exceptions do not cover all uses which are highly impervious. For those uses which are now required to undergo the special exception process, lot coverage standards can be required.*

*(See the attached proposed zoning text amendments 59C 1.32 and 59C 9.4)*

## Site Plan

Site Plans allow the Planning Board to review a detailed layout of a proposed development. For the most part, site plans are required where the developer is pursuing an "option" within a zone or the developer has applied for a zone that has a site plan requirement. Special exception uses sometimes require site plans, but not all private institutional uses require special exceptions. The benefits of site planning for all private institutional uses do not outweigh the burdens to property owners when the only purpose of the site plan is to limit impervious surface. *Staff does not recommend requiring site plans for all private institutional uses.*

*Staff recommends requiring a minimal site layout for uses that do not require special exceptions but have building coverages that exceed a trigger point for each zone. (See the attached proposed zoning text amendments 59C 1.328 and 59C 9.46 footnotes.)*

There is some burden on those submitting plans and those reviewing plans that would increase to document and review all impervious surfaces on a site. That information is currently being provided for sediment control/storm water management permits (when the land disturbance exceeds 5,000 square feet). The information on impervious surfaces is not provided on the present building permit for a new structure. Based upon past experience, very few sites will exceed the impervious caps being proposed. Requiring a site layout where buildings take up a relatively large portion of the site, provides a tool to enforce the limitation on impervious area that applies to all properties.

### **Building Standards**

Zoning can establish any number of standards that control development. Height, bulk and setbacks are the most common of these controls. Some controls relate to particular uses. In some cases, the definition of the allowable use also sets the building standard. This is often the case with uses allowed in existing single-family dwellings. Setbacks are mechanically applied. Setbacks do not respond to variations necessary to respond to the natural environment.

There is a maximum building coverage limit in the Zoning Ordinance of 10% in the RDT, Rural, and RC zones, a 15% limit in the RE-1 Zone, and a 25% limit in the RE-2 zone. Staff does not know the logic for allowing a larger percent of building coverage in RE-2 – a zone which is mostly used for residential development at a density of one house for every 2 acres, than RE-1 – a zone that permits a density of one house for one acre. The parking requirements (assuming surface parking) would limit the amount of building coverage to something well below 25% of the lot. *Staff would support limiting the building coverage of the RE-2 zone. (See zoning text amendment attached 59C 1.328.)*

The present standard, which limits the percentage of a lot that can be covered by a building, does not limit impervious surface, which includes parking, driveways, patios, and loading space. The zoning code does require parking based upon specific building uses. There is no limitation on parking currently in these zones. The percentage that buildings cover the surface of a lot, can be used as an indicator of total impervious surface.

**Staff recommends limiting the building and hard surface coverage including parking in the RDT, Rural, Rural Cluster, RE-2 and RE-1 zones for all development in these zones. (See attached zoning text amendments.)** There is no question that private institutional facilities are a more intensive use than single-family development. The limit on building coverage should recognize that and permit an intensive use that applies to all allowable uses and does not exclude any legal uses. The impervious surface coverage of existing private institutional facilities can be a guide in setting a standard. To that end, the following table reflects the medians of existing total lot coverage by PIFs and staff recommendations.

Zoning	Existing Building Coverage Max. (As a % of Lot)	Median Impervious For Existing PIFs	Recommended Total Lot Coverage	Recommended Building Coverage Requiring Site Layout Design
RDT	10%	14.1%	15%	3%
Rural	10%	None currently existing	20%	3%
RC	10%	19%	20%	7.5%
RE-2	25%	22.5%	20%	8.5 %
RE-1	15%	21.3%	20%	11%

Following this memo are charts for each zone indicating the cumulative distribution of existing impervious surface for private institutional uses (page 10). The recommended limits are two to three times the impervious surface expected from the average impervious surface of these zones. This recognizes the needs of private institutional uses. The vast bulk of properties would not be affected by the staff's proposal as they are below the standards proposed. In any sub watershed, water quality is best assured by having total impervious surface 8% or below. The limits are set balancing the needs of permitted uses in these zones and water quality. Staff recommends specific lot coverage maximums with best management practices for the control of storm water. Clustering of dwelling units is a permitted option in the RE-1 zone with lots below one acre in size and open space provided on separate lots. Staff does not recommend having a total lot coverage limit for lots which use that clustering provision in the RE-1 zone.

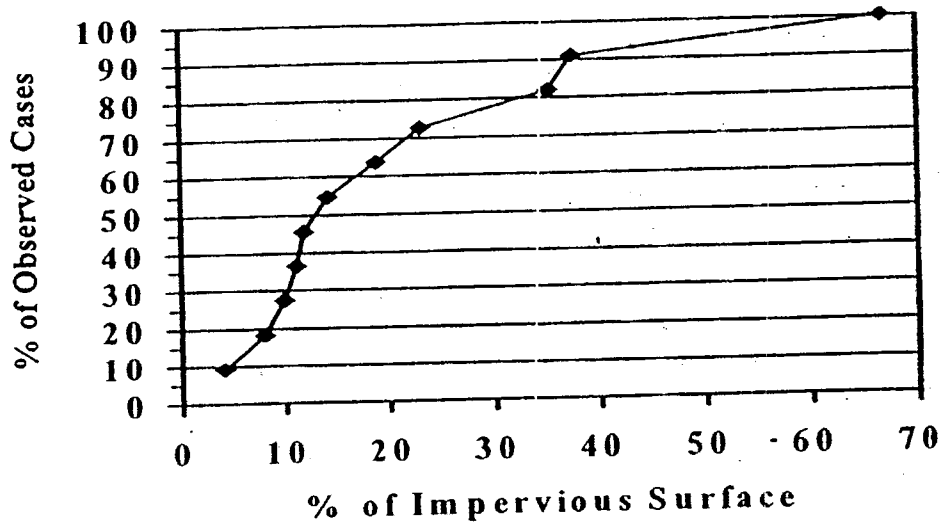
### Grandfathering

Any limit on impervious surface that protects water quality will be exceeded by some existing and approved development. Staff does not want to create non-conforming properties by virtue of this amendment. However, staff recommends making additional impervious surface resulting from expansion of the existing use subject to the new limitations.

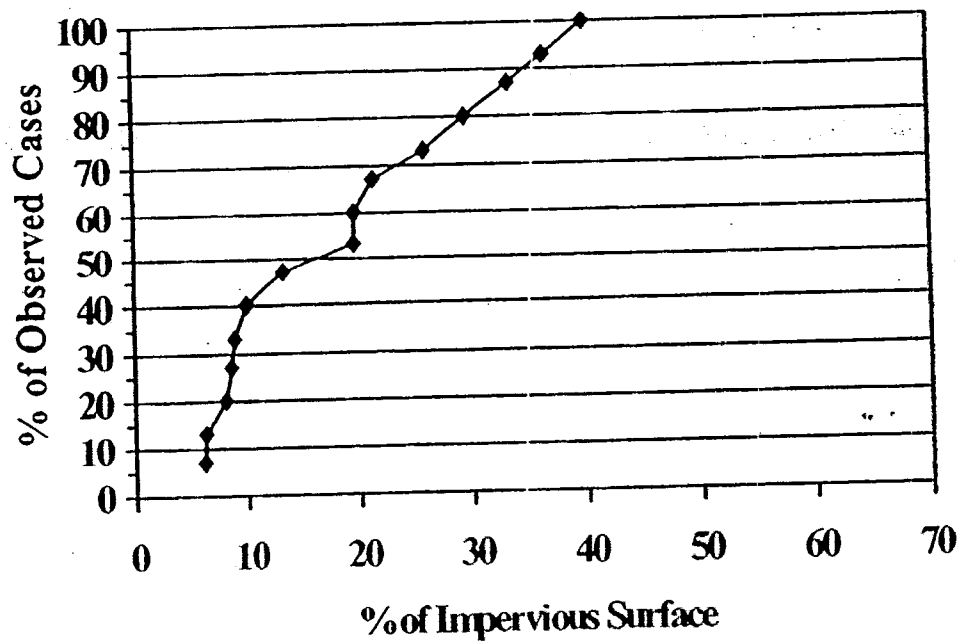


## Background charts

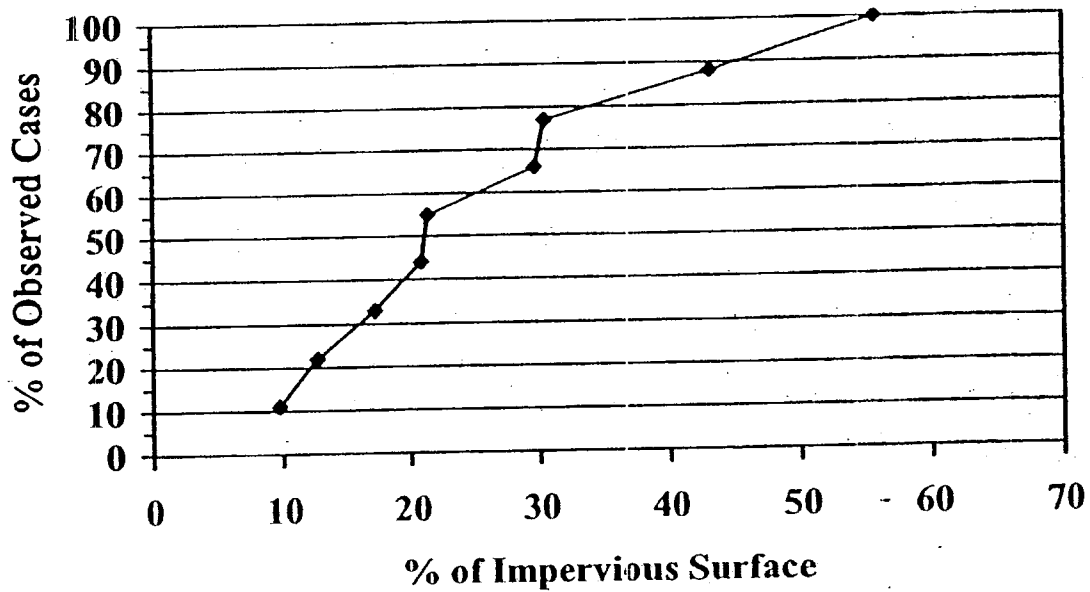
**Cumulative Distribution of the Percentage of Impervious Surfaces  
of PIF's in the RDT Zone**



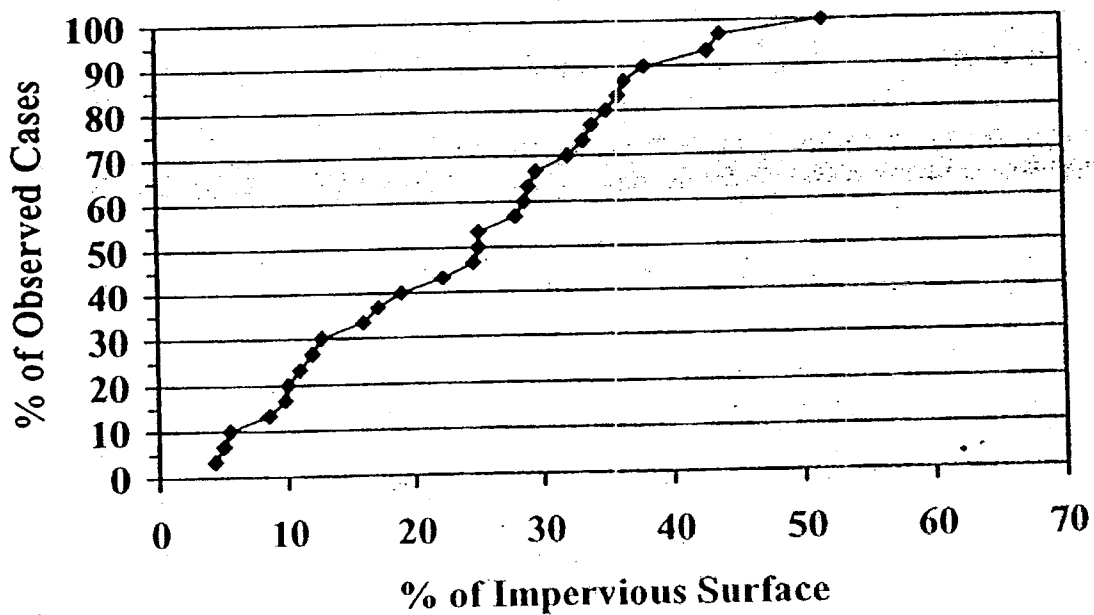
**Cumulative Distribution of the Percentage of Impervious Surfaces  
of PIF's in the RC Zone**



**Cumulative Distribution of the Percentage of Impervious Surfaces  
of PIF's in the RE-1 Zone**



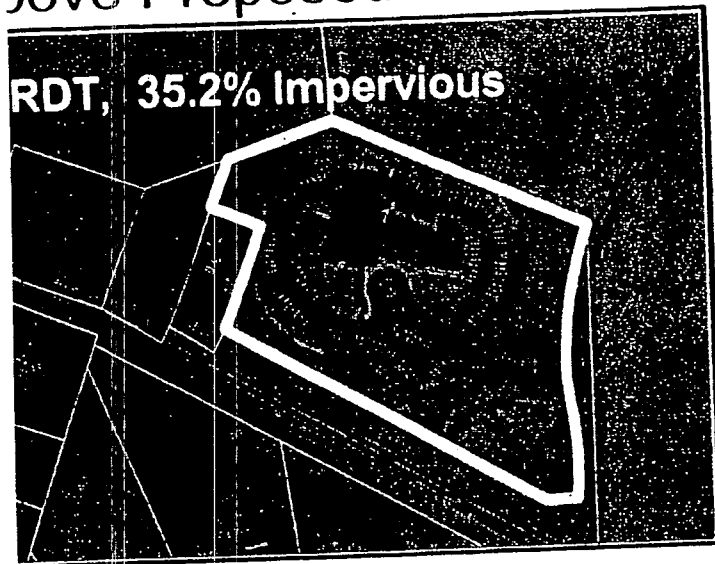
**Cumulative Distribution of the Percentage of Impervious Surfaces  
of PIF's in the RE-2 Zone**



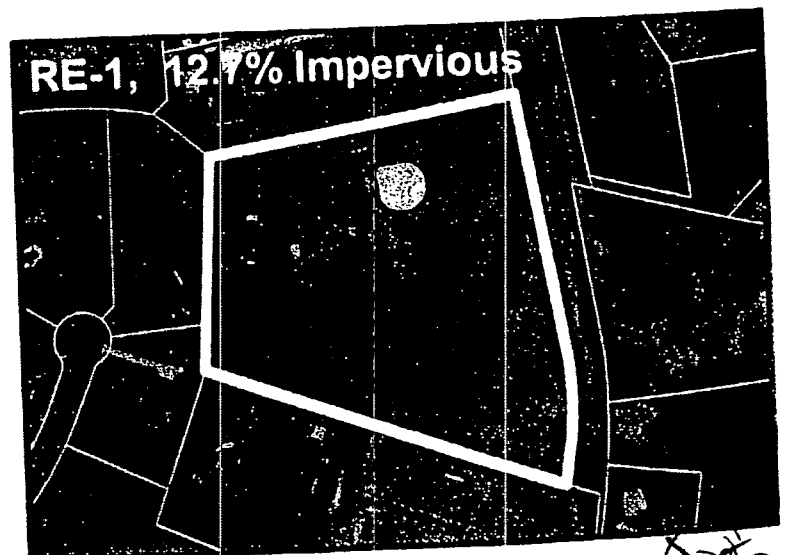
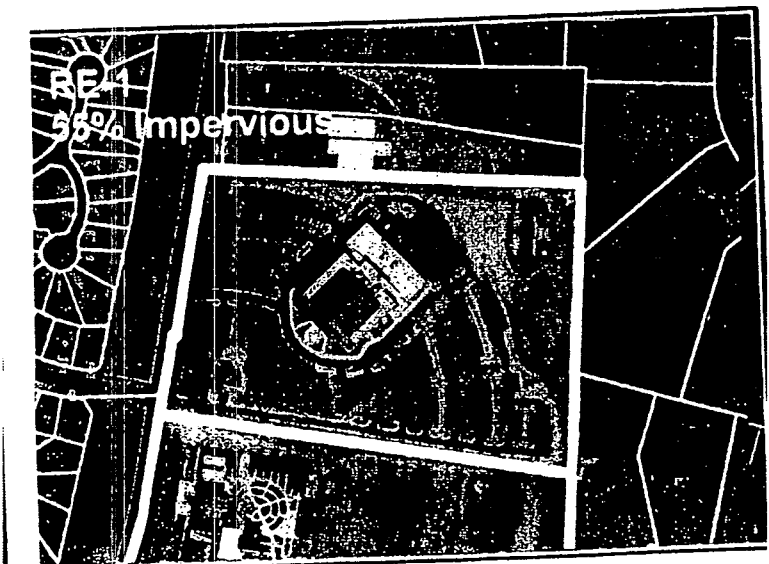
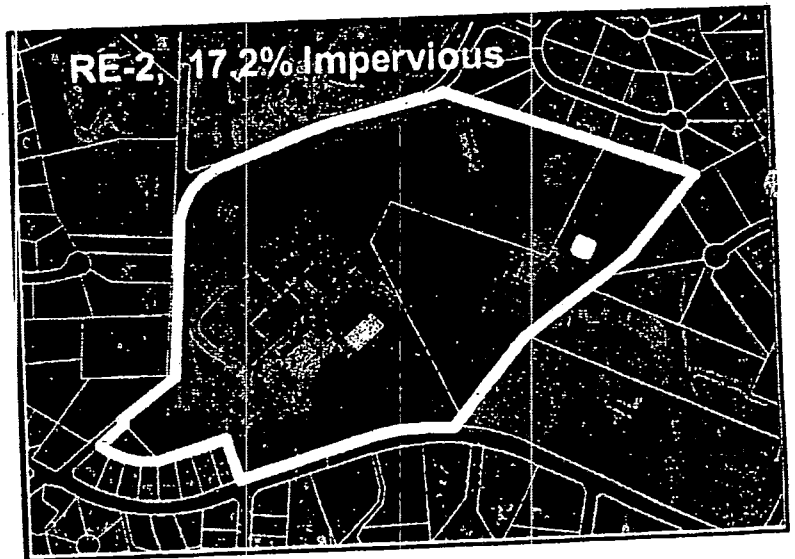
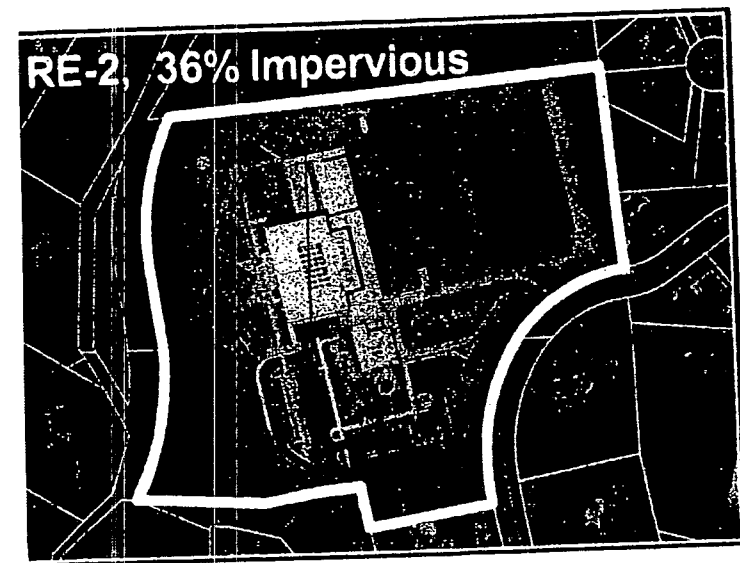
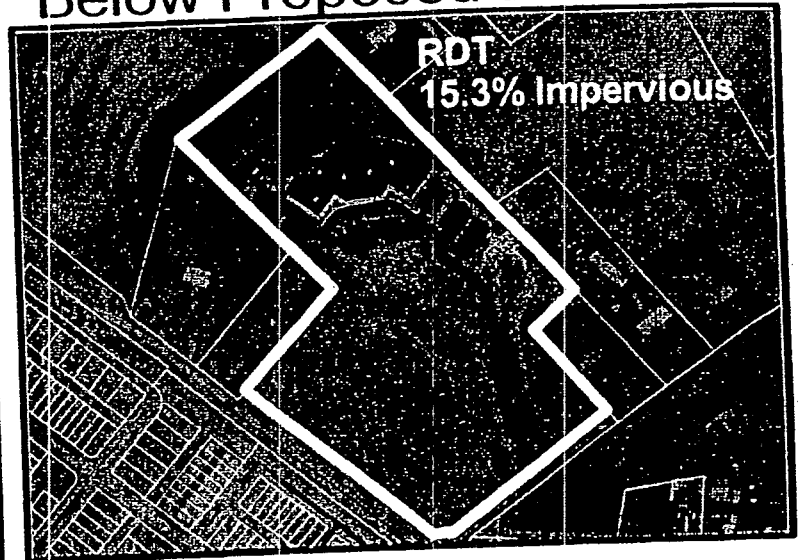
ZY:ss  
Attachment

# Examples of Impervious Levels

Above Proposed Limits



Below Proposed Limits



**Public Forum**  
**April 13, 2005, 7:30 PM**  
**Council Office Building**  
**3<sup>rd</sup> Floor Hearing Room**

**Goal of the Forum**

**To discuss options for addressing the environmental impacts of private institutional facilities in RDT, Rural, Rural Cluster, and Rural Estate Zones and to receive input from groups and individuals.**

**Forum Structure**

- The Working Group members will open the forum by discussing the charge of the Working Group and the options that have been discussed to date.
- Those who have indicated an interest in speaking (please contact Keith Levchenko to sign up) will be given 3 minutes to speak. Speakers are encouraged to also provide written comments.
- After each speaker, the Working Group may ask questions of the speaker and of other attendees in the forum.
- The forum will end no later than 10:00 PM.

**Background**

The County's Comprehensive Ten Year Water Supply and Sewerage Systems Plan (also known as the Water and Sewer Plan) includes a special policy whereby the Council may approve the extension of public water and sewer service to non-profit institutions (referred to in the policy as Private Institutional Facilities or PIF's) in areas that are not otherwise eligible for public service.

During a review of the Water and Sewer Plan in the fall of 2003, the Montgomery County Planning Board requested that the "PIF" policy be modified in order to reduce the potential negative environmental impacts of institutional projects that are approved for public water and/or sewer service via the PIF policy. The Board's concerns were centered on the following:

- 1) The potential negative environmental effects of the development density and impervious surfaces associated with PIF projects which are generally well in excess of those associated with other allowed uses within the rural and rural estates zones; and
- 2) The loss of large tracts of land in the County's valuable agricultural preserve (RDT Zone) to uses other than agriculture.

In response to the Planning Board request, the County Council asked the Board to suggest changes to the Montgomery County Zoning Ordinance to address the problems raised. The

Council, in its consideration of several recent PIF category change requests, had raised concerns similar to those raised by the Planning Board. M-NCPPC staff subsequently developed, and the Board approved, a zoning text amendment affecting all development in RE-1, RE-2, Rural, Rural Cluster and the Rural Density Transfer zones by limiting the allowed impervious surface on a site to a percentage of the total site area. The Board transmitted the zoning text amendment to the County Council in April 2004. It was introduced by the Council in December 2004.

On January 20, 2005 the Council's Transportation and Environment (T&E) Committee asked Council Staff to form an interagency Working Group to review the Private Institutional Facilities (PIF) issue with regard to its impact on large lot zones and provide recommendations for changes that would balance the needs of PIF applicants with the County's interest in avoiding and/or minimizing environmental impacts of PIF uses in these zones.

### **Formation of the PIF Working Group**

The Working Group consists of staff from the Maryland-National Park and Planning Commission, the Department of Permitting Services, the Department of Environmental Protection, County Attorney, Department of Economic Development, and County Council staff.

The Working Group will submit a report to the Transportation and Environment Committee in May that will include a discussion of possible options as well as recommendations for pursuing one or more options.

### **Goals of the Working Group**

The Working Group has established the following (sometimes conflicting) goals that it wishes to address.

- Avoid, minimize and/or mitigate negative environmental and other impacts (both in the short-term and in the long-term) of PIF uses within the rural and rural estate zones.
- Support working agriculture and rural character of these areas.
- Provide predictability in the process for PIF applicants and other interested parties.
- Ensure a fair process that is transparent to land owners, neighbors and potential purchasers.
- Sufficiently target any proposed changes so as to minimize unintended consequences on other individuals, groups, or institutions.
- Make recommendations that, if approved, are administratively feasible to implement, and which do not overly burden the environment, PIF applicants and other affected parties.

### **Public Input**

The T&E Committee directed the Working Group to seek public input on this issue. This public forum as well as the Working Group's solicitation of written comments is intended to address this point.

Groups and individuals will also have an opportunity to provide comments directly to the County Council if and when any of the report recommendations are taken up for discussion by the County Council.

Written comments should be forwarded (via regular mail or email) to:

Keith Levchenko, Legislative Analyst  
100 Maryland Avenue, 5<sup>th</sup> Floor  
Rockville, MD 20850  
[keith.levchenko@montgomerycountymd.gov](mailto:keith.levchenko@montgomerycountymd.gov)  
240-777-7944

### **Possible Options**

In addition to the option of leaving the current process unchanged, the following options have been discussed by the PIF Working Group as possible ways to address environmental impacts of Private Institutional Facilities (PIFs) in RDT and Rural Estate Zones.

At this time, the Working Group is not recommending any particular option or options. The Working Group would like to receive feedback from the public on these options, as well as hear about any other possible options that should be considered. While some options may preclude others, many of the options are not exclusive (i.e. one could choose to pursue multiple options).

The options are divided into two categories:

- Zoning Options (those options that would involve changes to the Montgomery County Zoning Ordinance), and
- Water and Sewer Plan options (those options that would involve revisions to the County's 10 Year Comprehensive Water Supply and Sewerage Systems Plan.)

Note: Master plans also come into play as they are revised, and specific land-use issues (such as encouraging or discouraging institutional uses in certain areas) should be part of the master plan process.

Master plans are not an ideal way to deal with over-arching issues such as the PIF issue. Master plans come to the Council one by one and are updated infrequently. Also, though master plans carry tremendous weight with the Council, these documents are considered advisory in nature, and would not necessarily ensure a consistent approach to the issue over time. Finally, in many cases, master plan recommendations may not be specific to particular lots or sub-areas in master plans. Therefore, it is important to have zoning and/or PIF language that fills these gaps.

Another concern that will need to be addressed if any changes are made to either the Zoning Ordinance or the Water and Sewer Plan is that of grandfathering approved and existing uses. The Working Group will address this issue in its report to the T&E Committee in the context of the various options discussed.

Finally, it is important to note that the Maryland Department of the Environment (MDE) has final authority over a County's water and sewer policies. Policy changes and/or category change approvals made by the County Council are subject to review by MDE.

### **Zoning Options**

1. **Prohibition by Use or Size of Use:** Currently certain institutional uses are allowed either by right (such as places of worship) or by special exception (such as day care centers) in the RDT, rural and Rural Estate zones. These uses could be prohibited or restricted in size in these zones. This approach would not distinguish as to whether a property is to be served with well and septic or public water and sewer. This approach also would not distinguish between areas of varying environmental sensitivity, nor does it directly link to the potentially varying environmental impacts of different institutional uses.
2. **Require a Special Exception:** Many institutional uses require special exceptions to locate in the RDT and Rural Estate zones. This approach would require all institutions to go through the special exception process to locate in these zones. A special exception requirement might also be triggered by the size (impervious area, building coverage, building square footage, etc.) of any use..
3. **Require Site Plan Review:** Under this approach, a site plan would be required for developments meeting certain criteria. The criteria could include those developments that will have building coverages that exceed a certain trigger point for each zone. Currently, site plan reviews focus on compatibility issues. However, under this option, environmental and other impacts could be considered as well under new criteria.
4. **Add Impervious Area Caps by Zone:** Building coverage limits currently exist in the Zoning Ordinance. These limits could be modified and new limits could be imposed by zone on total lot coverage as well. Total lot coverage would include all impervious areas, such as parking lots, that are separate from the buildings. All uses (unless specifically exempted such as agricultural uses) would be covered by these caps regardless of whether they receive public water or sewer service. This approach was recommended by the Planning Board in its zoning text amendment transmittal to the Council in April 2004.
5. **Environmental Overlay Zone:** Under this approach, environmental criteria would be established that would dictate building restrictions and/or limitations across certain environmentally sensitive areas within the RDT and Rural Estate zones. Areas within the overlay zone could be subject to special requirements such as impervious area caps as discussed in Option #4. As with other zoning-related options, this approach would affect all properties in the overlay zone.

### **Possible Revisions to the Water and Sewer Plan**

1. **Eliminate the PIF Policy:** Institutions would be required to meet some other Water and Sewer Plan criterion (such as abutting water and/or sewer mains, locating within the

acknowledged public water and sewer service envelopes, etc.) in order to receive public service.

2. **Limit PIF Policy in certain areas of the County:** Under this approach, the PIF Policy would not apply in specifically designated areas. To be approved, water and sewer service requests in those areas would have to be justified by another Water and Sewer Plan policy.
3. **Put an impervious area cap requirement (or other building limitations) within the PIF Policy.** This approach would require PIF applicants to meet certain impervious area caps in order to be eligible receive public water and sewer service. Unlike if this approach were pursued in the Zoning Ordinance, property owners who are not seeking public water and sewer would not be subject to these requirements.
4. **Require PIF Applicants to Institute best practices to reduce environmental impacts:** Currently, the only regulatory review required of all developments is the sediment control permit process. This approach would require the PIF applicant to adopt a higher standard of site design and low impact development controls that could include rain gardens, green roofs, permeable parking areas, and other “green” building practices.
5. **Require Pre-Application Plan Approval:** PIF applicants would be required to submit a pre-application plan for review to M-NCPPC as part of its water/sewer category change application. This plan would then be reviewed by DEP, DPS, Park and Planning, and other County agency staff as part of the PIF review process.



# April 13 Forum Speaker List

#	Name	Organization
<b>Group A</b>		
1	Jeff Patch	Church of the Redeemer
2	Pastor Bruce Johnson	Seneca Creek Community Church (time ceded by Linowes & Blocher)
3	Linowes & Blocher, LLP	for Parker Memorial Baptist Church (No testimony given)
4	The Rev. Dr. Guy A. Williams, Sr	Parker Memorial Baptist Church (No Show)
5	Pastor Bruce Johnson	Seneca Creek Community Church
<b>Group B</b>		
6	Erica A. Leatham	Holland and Knight (The People's Community Baptist Church)
7	Anne Ambler	Sierra Club
8	Bonnie Bell	Greater Goshen Civic Association
9	Steve Dryden	Individual
10	Jim Humphrey	Montgomery County Civic Federation
<b>Group C</b>		
11	Lori Taylor	Neighbor of a property requesting service
12	Jane Evans	Farming Community
13	Stella Koch	Audubon Naturalist Society
14	Krisna Becker	VP, Clarksburg Civic Association
15	Margaret Chasson	League of Women Voters
15a	Jane Wilder	Individual
<b>Group D</b>		
16	Jim Clifford	Agricultural Advisory Committee
17	Wade Butler	Montgomery County Soil Conservation District
18	George Lechliden	Montgomery County Farm Bureau
19	Pastor John Cuzick	Bethel World Outreach Church (did not speak)
20	Barbara Sears	for Bethel World Outreach Church
20a	Debbie Tomlinson	Individual
<b>Group E</b>		
21	Barbara Medina	Individual
22	Vince Berg	Individual
23	Tom Linthicum	Farming Community
24	Quentin Remein	Individual
25	Carol Fanconi	Individual
<b>Group F</b>		
26	Mabel Thomas	Individual
27	Patricia Thomas	Individual
28	Bruce Dunkins	Stonegate Citizens Association
29	Wayne Goldstein	Individual



①

1942<sup>nd</sup> Woodfield Road  
Gaithersburg, MD 20879  
301.926.0967  
church-redeemer.org

Dale A. O'Shields  
Senior Pastor

April 13, 2005

My name is Jeff Patch, and I am a Trustee of Church of the Redeemer of Gaithersburg. I am not compensated by the Church, and serve on a volunteer basis. Our Senior Pastor, Dale O'Shields, could not be here this evening because he is leading a special service at our church that was scheduled well before we became aware of this public forum.

Church of the Redeemer was started in Gaithersburg in 1986 with one family in attendance at the first service, and has grown to the point where we serve approximately 5,000 attendees each weekend over five services. Our congregation consists almost entirely of Montgomery County residents, and our demographics mirror the tremendous diversity of the community in which we serve. We believe the growth we have experienced is a testimony to the positive difference the Church has made in the lives of its members and visitors through practical teaching and numerous ministries that meet a very diverse group of people at their point of need. Church of the Redeemer also operates a school that serves grades K-8, and is open both to our church family and to the surrounding community. In order to serve the needs of our growing church and school population, and to better contain parking for weekend services, the Church recently purchased an additional 17-acre parcel at the corner of Woodfield Road and Warfield Road, located in close proximity to our existing site.

Church of the Redeemer opposes all of the "options" being considered by the Working Group. Simply put, there is no crisis necessitating any of these proposed changes to the Water and Sewer Plan or the Zoning Ordinance. The issues before the Working Group are not new; the County Council has reviewed on several occasions, most recently in November/December 2003. The results of these prior reviews are the PIF policy and the existing provisions addressing Churches in the Zoning Ordinance.

The existing provisions of the Water and Sewer Plan (particularly the PIF Policy), the Zoning Ordinance and the various environmental protections (i.e. storm water management review, forest conservation, stream valley buffer protection) already in place recognize the well-established public benefits of churches, as community serving uses, and ensure the development of new church facilities occurs in an environmentally responsible manner.

⑦

The PIF policy is a well thought out policy which recognizes that because of their community serving nature, under certain circumstances and on a case-by-case basis, church facilities should be subject to a limited exception from the general provisions of the Water and Sewer plan. Concerns that new church facilities utilizing the PIF policy will open the adjacent areas to additional development or that these uses will have an adverse environmental impact are misplaced. Development of new facilities under the PIF policy is subject to the limitation that extension lines may not open additional properties to water and sewer service. Concerns with respect to water quality are adequately addressed through the environmental review processes already in place (i.e. storm water management review, forest conservation, stream valley buffer protection). By contrast, most of the existing uses in the areas where new church facilities are proposed (i.e. surrounding agricultural and residential uses) lack these protections.

Similarly, proposed changes to the Zoning Ordinance are unacceptable. The County's long standing policies with regard to churches as permitted uses have served county residents well; churches are community serving uses and an essential part of the community. Furthermore, the "options" proposing an expanded site plan review process; impervious area caps by zone or additional environmental overlay zones are unwarranted and unwise. The concerns to which these proposals purportedly respond are already adequately addressed through the environmental review processes and regulations already in place.

Lastly, it is important to recognize the limited impact of churches in the agricultural, rural and rural estate zones. Simply put, churches use only a miniscule amount of the County's land (much less than one percent), and yet the public benefit derived from these uses is incalculable. Through regular religious services, outreach ministries, and public welfare programs the County's churches are an integral and vital part of the fabric of the community. In many cases the services provided by churches replicate, if not replace, necessary social services, which would otherwise be provided by government.

By way of example: Church of the Redeemer

- has partnered with the City of Gaithersburg and the Division of Human Services for the past seven years to support the City's Holiday Giving Program. In the last two years alone, the Church has contributed over \$110,000 and provided hundreds of volunteers working well over 1,000 hours in distributing food, gifts and toys that touched approximately 2,000 needy children and their households in 2003, and approximately 2,700 children in 2004. Attached are letters from our Coordinator of Outreach Ministries and from the Program Manager at City of Gaithersburg Human Services detailing our results. Also attached are Certificates of Appreciation that were given to Church of the Redeemer in 2003 and 2004 by the Mayor and City Council of Gaithersburg.
- Church of the Redeemer also operates a number of ministries that serve the needs of people in crisis who might otherwise depend on social services from the City or County. Our Celebrate Recovery Ministry is designed to help

people with various addictions, including drug and alcohol abuse, and was recently expanded to include an outreach to the Montgomery County Correctional Facility in Clarksburg. Celebrate Recovery has been a model for other churches and institutions, and receives many of its referrals from health care professionals. We also offer support group for grief care, divorce care, and a variety of other needs.

- Church of the Redeemer offers a wide variety of ministries that serve the specific needs of various age and ethnic demographics, including ministries for children, youth, young adults, seniors, married couples, singles, Spanish-speaking individuals, hearing impaired, law enforcement personnel and military veterans.

There are many other examples of ways that Church of the Redeemer serves the community. The need for churches to expand and fulfill this mission will only increase as the County's population increases and government funding for social services decreases

In summary, Church of the Redeemer joins with and the other churches you will hear from this evening in opposing any changes to the Water and Sewer Plan, particularly the PIF Policy, or the Zoning Ordinance. Simply put, there is no need for any changes to these existing regulations and policies, which permit, after careful determination on a case-by case basis, the environmentally responsible development of these much needed community serving uses.



19425 Woodfield Road  
Gaithersburg, MD 20879  
301.926.0967  
church-redeemer.org

Dale A. O'Shields  
Senior Pastor

Monday, April 11, 2005

To Whom It May Concern:

Over the past two years, I have worked as the Coordinator of Outreach ministries for Church of the Redeemer in Gaithersburg, MD. I have worked closely with the City of Gaithersburg and Angel Tree Prison Fellowship Ministries to assist families who are in need in our community during the Thanksgiving and Christmas seasons.

Church of the Redeemer has been involved in community outreach for many years prior to my hiring. Throughout the years Church of the Redeemer has been committed to assisting thousands of families with free gifts for Thanksgiving and Christmas.

In 2003, Church of the Redeemer was responsible for the funding and distribution of food gift cards to 644 non-City households (equaling thousands of individuals) in Gaithersburg. We provided approximately 190 volunteers who contributed at least 550 volunteer hours to help with this project. The church, through Thanksgiving 2003 alone, contributed approximately \$30,000 to this project to feed needy families in Gaithersburg. For Christmas in 2003, Church of the Redeemer was responsible for providing food cards and gifts for the children of 863 non-City households in Gaithersburg. This averages out to approximately 2,009 children who received a Christmas gift from Church of the Redeemer in Gaithersburg. For this particular project the Church of the Redeemer congregation members donated new toys for these children. We again, had hundreds of volunteers who helped in this project. The church donated approximately \$27,000 to this Christmas project.

For Thanksgiving in 2004, Church of the Redeemer provided food cards for approximately 800 non-City households in Gaithersburg. The church also provided Thanksgiving food gift cards for 212 households in Germantown. In the Christmas season of 2004, Church of the Redeemer provided gifts and food gift cards for approximately 1,200 non-City residents in Gaithersburg. We also made a large contribution of food gift cards to the City of Germantown for Christmas 2004. In 2004, Church of the Redeemer invested about \$55,000 for these two projects.

The Mayor and City Council of Gaithersburg recognized Church of the Redeemer in both 2003 and 2004 for our commitment of service to the residents of Gaithersburg.

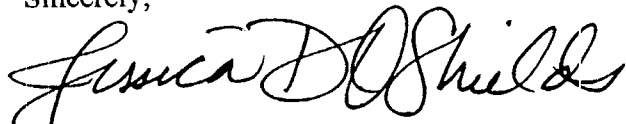
Church of the Redeemer has plans to continue our contribution to our community through projects like the Holiday Giving Program in Gaithersburg. We are continually looking to help more families each year. We have also begun a relationship with the City of Germantown and plan to assist this city as well.

Church of the Redeemer has also assisted families during Christmas time through Prison Fellowship Angel Tree Ministries. This Ministry reaches out to families with children whose parent(s) may be incarcerated. For many years, Church of the Redeemer congregation members have purchased and delivered new toys to these children all over Montgomery County at Christmas. Over the years, we have served thousands of children through this ministry outreach.

Church of the Redeemer is committed to providing resources to families in our community. We continue to look for ways to reach out and assist those in this county who are in need. If you have any further questions, please contact me at 240-238-1521 or email me at [joshields@church-redeemer.org](mailto:joshields@church-redeemer.org).

Thank you for your consideration.

Sincerely,



Jessica O'Shields

Coordinator of Helping Hands

[joshields@church-redeemer.org](mailto:joshields@church-redeemer.org)

240-238-1521



April 11, 2005

Jessica O'Shields  
Coordinator, Helping Hands  
Church of the Redeemer  
19425 Woodfield Road  
Gaithersburg, Md. 20879

Dear Ms. O'Shields:

On behalf of the City of Gaithersburg and the Division of Human Services, I would like to formally acknowledge the immense generosity of resources given by the Church of the Redeemer over the past seven years to the Gaithersburg Holiday Giving Program. Your congregation has been a critical partner in this long-standing collaborative effort to assist Gaithersburg families with Thanksgiving and December holiday food, gifts and toys for their children. In addition, the Church of the Redeemer has been an active and generous partner with the annual "Dinner of Thanks" given by Chicken Basket Restaurant each Thanksgiving day for area needy and homeless individuals and families.

In 2004, the Church of the Redeemer supported the Gaithersburg Holiday Giving Program through being an active member of the Program committee, supplying over 150 hands-on volunteers, hundreds of monetary and toy donors and over \$50,000 in church financial resources used for the purchase of toys and food store gift cards. Through this Church's giving alone, over 800 Gaithersburg area households were served including 2700 children.

Through their daily work in assisting congregation and community members in need, the Church of the Redeemer also maintains an ongoing dialogue and collaboration with the City of Gaithersburg's Human Services office, and supplies volunteers and resources when able. It has been our honor to present you with a City of Gaithersburg Certificate of Recognition from our Mayor and City Council on several occasions because of your generosity and program support.

Human Services represents the City of Gaithersburg on the County Martin Luther King Jr. Commemorative Committee and, in preparation for the 2006 event, we are presently researching possible sites for both the program and community service component coordinated by the Montgomery County Volunteer Center. Again the Church of the Redeemer has stepped forward and volunteered to be considered as one of the possible sites. (TBD).

Thanks again to your congregation for all of your collaborative work with, and caring for, so many area families in need.

Sincerely,

Maureen Herndon, Program Manager  
Human Services

MH

City of Gaithersburg • 31 South Summit Avenue, Gaithersburg, Maryland 20877-2098  
301-258-6300 • FAX 301-948-6149 • TTY 301-258-6430 • cityhall@gaitersburgmd.gov • www.gaitersburgmd.gov

MAYOR  
Sidney A. Katz

COUNCIL MEMBERS  
Stanley J. Alster  
Geraldine E. Edens  
Blanche H. Keller  
Henry F. Marraffa, Jr.  
John E. Schlichting

CITY MANAGER  
David B. Humpton

12



**Gaithersburg**

A CHARACTER COUNTS! CITY

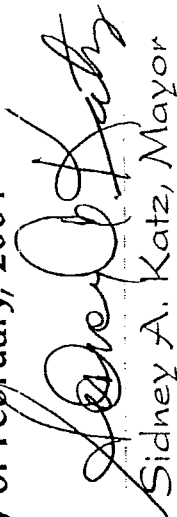
# Certificate of Appreciation

from the  
Mayor and City Council of Gaithersburg  
presented to

**Jessica O'Shields**  
and Members of  
**Church of the Redeemer**

for your annual commitment, talent and resources to the individuals and families served by the Gaithersburg Holiday Giving Program.

Presented this 17th day of February, 2004

  
Sidney A. Katz, Mayor







*Gaithersburg*

A CHARACTER COUNTS! CITY

# Certificate of Appreciation

from the  
Mayor and City Council of Gaithersburg  
presented to

**Jessica O'Shields**  
**Church of the Redeemer**

in gratitude for your outstanding community service, significant contributions to those in need, and dedication to the citizens of Gaithersburg and the Holiday Giving Program.

Presented this 20th day of December, 2004

*Sidney A. Katz*  
Sidney A. Katz, Mayor





## SENECA CREEK COMMUNITY CHURCH

April 13, 2005

Dear Council Working Group Members,

As most of you know, my name is Bruce Johnson and I am the Senior Pastor of Seneca Creek Community Church in Germantown. In addition, as you also undoubtedly know, we are one of the two churches stuck in limbo as you are deliberating the options concerning the impervious coverage ZTA that the Planning Board sent up to you last year. In light of that situation, it should not surprise you that we vehemently oppose any changes to the current PIF Policy or Water and Sewer Plan. Let me explain why.

- 1. There is no crisis that requires a radical change to either policy.** The ag reserve encompasses approximately 93,000 acres of land. There are only ten Protestant churches in Montgomery County over 1,000 people in weekly attendance that I am aware of (on y two of which don't have permanent facilities—but whom both have land contracts). Furthermore, there are only a handful of Protestant churches in the 500-1000 people per week range in our County. The average size of a congregation in America is around 100 people per week. Fully 85% of churches never make it above 200 people per week in average attendance. And only 1% makes it above 1,000 people per week in attendance. Growing a large church is not that easy. So the fear that there are lots of large churches on the horizon that are going to "eat up" the Ag reserve is just a lie. Even if we saw another ten churches of 1,000 or more sprout up over the next twenty or thirty years—and even if they all bought 100 acre parcels of land, that would still leave 92,000 acres of non-large church land. There is no crisis.
- 2. Large Churches can only locate next to the water and sewer envelope.** In other words, since a church can only have up to six hundred people on a septic field, any large church would have to locate on the edge of the ag reserve, right next to the water and sewer envelope. The reason we selected the Woodfield farm property was precisely because it was right next to a water and sewer hook up (the same one the Catholic cemetery connects to). The idea that we could find another location in the Ag reserve doesn't smack of reality. Council Member Leventhal told us we should find another piece of property. But where? Our county has had enough trouble finding a five-acre parcel for a fire station in Germantown and we spent seven years trying to find a location for our church. Whoever believes that there are plenty of locations for large churches to locate in, simply hasn't looked.
- 3. The current proposals have huge unintended consequences.** As you know, the way the environmental groups are spinning this is that this is a ZTA against large churches. They are wrong. Your report states that you want to avoid unintended consequences. Well, these current changes have huge unintended consequences. This is primarily a ZTA against smaller houses of worship, not larger. Let me explain. If a church or synagogue of 200-300 people wants to buy a piece of property to build on, using the recommended 15% impervious coverage rate—in order to get three acres of impervious coverage for a building, walkways, a driveway and a parking lot (one acre = 100 cars) they would need to buy 20 acres of land at a cost of at least \$800,000 (of which 17 acres at \$40,000/acre = \$680,000 would be unbuildable). Forgetting the fact that there aren't a lot of 20-acre parcels left for sale in Montgomery County, a church of 200-300 people usually can't afford to pay \$800,000 (or more) just for unimproved land (let alone pay for a building, an architect, landscaping, etc.). So, while some want to paint this as a means to stop large church growth, this really is a ZTA that will hinder the growth and development of all houses of worship throughout Montgomery County, primarily smaller ones. These regulations have unacceptable unintended consequences.
- 4. There is a reason governments give preferences to religious organizations.** What we give back to our communities far outweighs what we take from them. Our church is no different than any other house of worship, but I do know our story. When the school system needed a place for their S.H.A.R.P.s program, they came to us.

ABSOLUTELY

POSITIVELY

LIFE-CHANGING

(15)

When community groups need to hold large Germantown leaders events, they're usually held at our place. When Germantown HELP needs food, we bring in 500 bags of groceries (plus money). When Plum Gar needed a computer lab, we put in computers. When Meals On Wheels needs money, we're there. When UMAN (Upper Montgomery Assistance Network) needs money, we respond. When our own County can't pay all of the money to keep someone from being evicted, we're often there to pick up the tab. When twelve step groups like AA or NA need a place to meet, we work them in. And beyond that, our members serve on PTA and HOA boards. They coach sports leagues and head up community organizations. And they drive for Meals on Wheels and raise money for non-profits. We create servants, that's what we do. In fact, this Sunday I'm talking about how we can bless our community by serving people.

However, the benefit to our County goes way beyond all that. The reason that churches like Seneca Creek have experienced so much success (apart from the grace of God) is because we've all been highly effective at changing people's lives...for the better. There is a tangible benefit to our County for every marriage that those in the religious community save, every addict that we help straighten out, every alcoholic we help get sober, every parent that we help train to be a better parent, every child that we keep out of trouble, every unwanted pregnancy that we help avoid, every depressed person that we help find hope, every overweight person that we help get in shape, every unproductive person that we help become a motivated employee and every business owner that we help become a better leader. The rippling effect of what we as houses of worship do in our communities is huge. In addition, those who belong to a house of worship stay longer in their communities because they have a reason to do so.

5. **Over half of our existing churches in these rural zones do not meet the planning board's proposed impervious limit.** I have been shocked in my meetings with the planning staff and board, as well as with some of our Council members over this issue. Our County has a deficit of church facilities and yet, if these policies had been in effect over the past thirty years, over half of the currently existing churches wouldn't have been able to build what they currently have. If over half of the current church facilities in our County wouldn't meet this proposed impervious cap, there is no way our County should even be considering a change in the policy. I cannot overstate how damaging these proposed changes would be if implemented.
6. **Our County hasn't planned for houses of worship in our Master Plans.** As Chairman Berlage has stated on a number of occasions, one of the things he's learned from me through this process is that, as great as we think our Master Planning process is, our County has not planned for houses of worship. In Germantown, we have 85,000 people (on the way to 95,000). Yet we only have six Protestant Church facilities, one Catholic parish and no synagogues in our community. Anyone can take a look at national statistics and figure out that in a city of 95,000, a good percentage of those people will probably want to go to a church or synagogue. However, by the time the population arrives to support buying land and building a house of worship, the developers have bought all of the land that can be used for generating a profit. The only land left is the land that can't be used to generate a sizeable profit—which is usually RDT land (or RE-1 or RE-2). In other words, our County has planned poorly for this significant community use and must now do everything possible to help correct this deficiency. Placing additional layers of bureaucracy and cost on top of our religious institutions is unconscionable.

So, in conclusion, I would argue, as I did before the planning board back in the fall of '03, that there is no need for any change in our County's PIF policy, ZTA's or water and sewer plan. This is a sledgehammer in search of a pinhead. The current regulation of 10% building coverage in the RDT zone is a sufficient regulation. Back in 1997, I was a part of the coalition that helped defeat the ZTA that asked for a 50% green space requirement. If you don't remember that experience, that was the largest turnout of church members that I've ever heard of in this County. The current proposal of 15%, not even close to the 50% that was ultimately defeated back in 1997, will bring out a turnout that this County has never seen before. So we would once again recommend that this Working Group save all of us a lot of time and money and find, as you did back in 2003, that there is no need at this time for a change in the current PIF policy. At a time when government is looking to faith-based organizations to pick up the slack for what they can't afford, it just seems incredulous to us that you would make it more difficult and costly for the houses of worship that can actually provide what you can't.

Sincerely yours,



Rev. Bruce D. Johnson

P.S. From a personal standpoint, we think this process has been rather unfair to us as a church. We applied for a water and sewer category change in January of 2004, about a month after the Council affirmed the current PIF policy.

P.P.S. In addition, as I mentioned to Keith, holding a community forum on a Wednesday evening, a traditional mid-week church service evening, was probably not the wisest choice of evenings to chose, if you want input from church leaders.

William Kominers  
301 215.6610  
william.kominers@hklaw.com

Erica A. Leatham  
301.664.7620  
erica.leatham@hklaw.com

April 13, 2005

VIA HAND DELIVERY

Mr. Keith Levchenko  
Montgomery County Council  
100 Maryland Avenue  
Rockville, Maryland 20850

Re: PIF Uses in the Rural and Rural Estate Zones - Public Forum  
The People's Community Baptist Church

Dear Mr. Levchenko:

On behalf of The People's Community Baptist Church ("TPCBC"), this letter presents comments with respect to the proposed changes to the County's policy for private institutional facilities in the rural and rural estate zones. As a institutional use providing key services to the community, beyond those traditionally associated with a religious institution, TPCBC is concerned that the proposed changes will impair its ability to carry out its mission.

Background. TPCBC is a long time resident of Montgomery County. The main Church site is situated on Norwood Road, just west of New Hampshire Avenue, and has been at this location since 1979. Before that, the Church met in other available places in the County. Currently, the site includes a sanctuary and other worship spaces, classrooms, administrative space and a surface parking lot (partially asphalt, partially gravel). In addition to ministering to a significant number of the County's residents, the Church also runs a health clinic under a grant from the County at the East County Regional Center. In an effort to continue its mission to serve the community, congregants and non-congregants alike, TPCBC has planned a project to expand its current facility, and, consequently, filed a Water and Sewer Category Change request.<sup>1</sup>

Because the Church is a landowner and resident of the community, TPCBC must live with any impacts created by the development and, therefore, has a strong incentive to be a responsible steward of the environment. In fact, TPCBC has planned a development program to maintain a

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<sup>1</sup>The Category Change Request was filed in the summer of 2004, but was not taken to the Planning Board or County Council for review due to this pending study. We note that this delay is of unlimited duration which significantly compromises the Church's mission.

significant amount of the site in green space by constructing a structured parking facility (the first we know of for a religious institution in the County) and employing best management practices to properly manage the environmental characteristics of the site and the watershed. Significant time and effort has been spent to ensure that the development will have no negative impacts on either the immediate area and the overall watershed. Instead, the development anticipates that the best management practices will actually improve existing conditions, consistent with TPCBC's mission to give back to the community.

General Comments to Goals and Objectives. TPCBC believes the general objective to improve the quality of the streams in Montgomery County is a good one – the entire community benefits by such action. However, this objective does not balance that goal against the needs of the community for the services that are provided by Private Institutional Facilities (“PIFs”). In fact, the objectives noted in the materials do not include a single reference to the community benefits provided by these, generally, non-profit institutions, and how the operations, functions and regular growth of existing PIFs would fare under the proposed regulations. The Church finds this silence startling in that the services it, and other PIFs, provide to the community – and the community's desire for such services – is something that should be considered as an essential element of any new regulations.

A tension will always exist between any new development, PIF or otherwise, and environmental concerns, because development necessarily changes the existing landscape. However, these impacts can be managed to maintain, or even improve existing conditions. Yet, most of the changes proposed by the Working Group would not allow the flexibility for such positive change. In practice, the Working Group options will have the opposite effect – pushing PIFs to more rural areas where land is less expensive, thereby bringing more traffic and development to the County's “wedges” and impacting other ecosystems.

TPCBC does not accept the, unsupported, conclusion in the worksession materials that new PIF developments, and these developments alone, have caused any degradation in the quality of the County's streams. There are numerous developments throughout the County that lack any stormwater management controls at all and others that use the older technologies that are no longer effective. TPCBC contends that these conditions that have a far greater impact on the quality of streams than any which result from new projects built to current stormwater management standards. Additionally, developments commercial and residential with very high impervious levels are permitted in the more dense areas of the County immediately adjacent to streams. The County has determined such development to be acceptable because of the stormwater management and sediment controls currently in place. It is, therefore, hypocrisy to conclude that PIFs create impacts of a larger magnitude. Consequently, TPCBC believes the existing system of subdivision and Department of Permitting Services review adequately manages the environmental impact of PIF development and at the same time allows the applicants the flexibility to carry out their missions, while employing best management practices and new technologies to control the environmental impact.

As a whole, the proposed regulations (1) eliminate all flexibility in site design, (2) effectively curtail an expansion of an existing PIF and (3) will frustrate the County's land use planning goals

and the community's desire for these uses to function properly. For example, TPCBC, as it exists today, is already beyond the 15% impervious cap that was previously proposed. Yet, in order to maintain its responsibilities to the neighborhood and provide sufficient parking for the congregation, the Church must install a new parking surface since it recently lost its lease on certain adjoining land. Were any of the new regulations implemented, TPCBC would not be able to undertake the project. This would be a disappointment for the local community, particularly, where best management practices could be used to fully mitigate the environmental impact of the new parking area. We do not believe this is the intention of the Council.

As stated above, TPCBC believes the proposed restrictions are unnecessary and are based on a faulty premise. But, even assuming the validity of the underlying premise, which TPCBC does not concede, the proposed "solutions" are out of proportion to the issue. Rather than look at individual site conditions and individual use circumstances, the proposed regulations use broad, general restrictions that may or may not be appropriate in an individual case. Specifically, the location of TPCBC's property is naturally disconnected (in the technical sense) from any streams in the area. As a result, the impact to the local streams of any run-off is negligible. However, this factor is not taken into account in any scenario, all of which would limit the application of other best management practices which would have a more immediate and discernable impact on any environmental issues in the local communities.

In summary, TPCBC's primary concern is that the lack of consideration of the continued function of PIFs in the Working Group's objectives has led to too narrow a view of the main issues. As a result, the proposed changes, rather than balancing the various interests so that they can co-exist, instead create an inflexible straight-jacket preventing TPCBC, and other community-serving PIFs, from furthering their missions. TPCBC proposes a case-by-case evaluation of each new development—as is done currently.

Comments to Specific Options: Zoning. A concern common to all these recommendations is the treatment of existing buildings and impervious surfaces, particularly, where the development already exceeds the proposed limits. None of the materials addresses this issue. Primarily, any grandfather provision must allow existing structures as Conforming Structures, as opposed to Non-Conforming Structures. Further, there must be a mechanism to allow such structures a reasonable way to expand programs.

1. *Prohibition by Use or Size.* Such a broad prohibition would have far-reaching negative impacts. First, in what manner would the ultimate size be determined and upon what basis? How can such a bright-line be drawn without taking into account site characteristics, particularly where the same building will have different impacts on differently sized and situated properties.
2. *Require a Special Exception.* This suggestion is directly contrary to the Council's past directive that religious institutions, in particular, were not required to go through the Special Exception process.

3. *Require Site Plan Review.* This is the most reasonable option for projects that exceed a certain threshold level of imperviousness or building size by providing a mechanism for the PIF to carry out its mission and still mitigate any environmental impact. However, even without site plan review, these environmental aspects are already subject to review during the engineering review process; another level of redundant review would not add any value to the process, merely further prolong the development process and double the County's workload.
4. *Add Impervious Caps By Zone.* The challenge to this approach is the underlying tension between the varying zoning regulations, which can result in the inability of a project to meet either provision. For example, religious institutions are required to provide one parking space for every four seats in the sanctuary, which can require a substantial amount of parking. However, an imperviousness cap may not permit the religious institution to provide the appropriate level of parking. Consequently, balancing these objectives becomes impossible due to the wide variation in developments and property types. Moreover, as discussed in Paragraph 1 above, the basis for such a cap has not been adequately established so as to support this ongoing regulation and such a bright-line rule does not accommodate the variations in site design and site conditions that exist in the County.
5. *Environmental Overlay Zone.* An overlay zone is effectively an amalgamation of all of the options discussed above and has all of the flaws associated therewith. However, one benefit to this approach is that it allows the most environmentally sensitive areas to be treated differently from more developed areas, such as the New Hampshire Avenue area where TPCBC is located.

Comments to Specific Options: Revisions to Water and Sewer Plan.

1. *Eliminate the PIF Policy.* TPCBC abuts an existing water and sewer main and, therefore, would meet other criteria for its pending Category Change. However, the PIF policy was adopted after careful consideration of the needs of the community for such facilities outside of the water and sewer envelope and elimination of the policy would be directly counter to that well-established and countervailing public policy.
2. *Limit PIF Policy in Certain Areas of the County.* Such an approach would limit the community's access to much needed facilities, such as day care or elder care, in certain areas of the County. This directly contravenes the Council's policy to spread such services throughout the County for easier public access and reduced travel distances. In addition, the determination of which areas would be limited and why is a decidedly political question that does not fall within the stated objectives of the Working Group.
3. *Put an Imperviousness Cap (or Other Building Limitations) Within the PIF Policy.* This approach creates the same tensions as the proposed caps implemented by zoning regulations.

4. *Require PIF Applicants to Institute Best Management Practices to Reduce Environmental Impacts.* TPCBC supports the use of best management practices; however, a requirement to use such practices, in lieu of more traditional stormwater management mechanisms, may limit a property owner's approach to properly mitigate the impact of its development. In addition, the County has been slow to recognize and adopt certain new stormwater management technologies; until the County has expressed a willingness to approve the techniques, such a requirement cannot be implemented.
5. *Require Pre-Application Plan Approval.* The purpose of such a submission is unclear for the same reasons discussed above with respect to the Site Plan proposal.

Specific Input. TPCBC has not been provided any evidence that PIFs and their associated impervious areas are solely responsible for the degradation of the streams in Montgomery County. Until such a link has been proven, none of the above revisions are necessary. Current regulations require any new development to completely mitigate impacts through accepted stormwater management mechanisms, including best management practices. Local experts have assured TPCBC that such techniques are effective in protecting the environment; the older, uncontrolled developments present the most danger to stream quality. In light of these facts, the direction of the Working Group seems unwarranted.

However, if one accepts that PIFs create an environmental issue, there are a multitude of more flexible ways to confront the issue than the strict regulations proposed by the Working Group. For example, a Zoning Text Amendment could provide that if a PIF exceeds a certain reasonable threshold of imperviousness, 40%, for example (it is a fallacy to expect a PIF to have the same level of imperviousness as a residential development and the Council was aware of this fact when allowing such uses by right or Special Exception), then as part of the development process the PIF would be required to employ specified best management practices, undertake stream improvement activities elsewhere in the watershed (provided the necessary easements and/or right-of-way are already in place) or purchase land elsewhere for a preservation easement (similar to satisfying forest conservation requirements off-site).

TPCBC strongly requests that if any of the above recommendations are ultimately proposed, there be an opportunity to comment on the appropriate grandfathering provisions. Of particular concern to the Church is the treatment of properties that may currently exceed the proposed limits on imperviousness, both as they currently exist and if they wish to expand.

Finally, we note that if imperviousness caps were implemented or if certain areas were off-limits for PIF development, the Church would have no alternative but to relocate where there is adequate land to support the use and where PIFs are permitted. Such a location, affordable for the Church, only exists in the outlying areas of the County, which encourages the sprawl that planning officials, the County Council and the community have all discouraged.



Mr. Keith Levchenko  
April 13, 2005  
Page 6

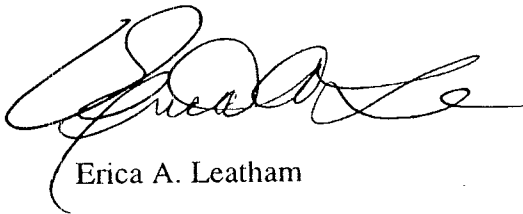
Thank you for the opportunity to participate in this forum and we look forward to participating in similar worksessions as the recommendations are finalized.

Sincerely yours,

HOLLAND & KNIGHT LLP



William Kominers



Erica A. Leatham

cc: Mr. Sol Graham  
Mr. Jeff Lewis  
Mr. Gene Edgecomb  
Mr. Chuck Irish

# 2762779\_v2

(9)

**Levchenko, Keith**

**From:** Steve Dryden [jsdryden@comcast.net]  
**Sent:** Thursday, April 14, 2005 3:55 PM  
**To:** Levchenko, Keith  
**Subject:** My statement last night

Keith: Thank you for arranging the forum last night. Below is my statement for the record.

I assume the letter from Clergy to the Council I sent you earlier this month is also in the record?

Do you recommend I also send the letter to each Council member, or will they and their staff see it when this issue comes to active consideration?

Thanks

Steve

## **STATEMENT OF STEVE DRYDEN, AT PIF WORKING GROUP PUBLIC FORUM, APRIL 13, 2005**

I'm Steve Dryden, a member of the Session, or ruling body of the Bradley Hills Presbyterian Church in Bethesda, and I am here tonight to present a letter signed by one of our pastors as well as other ministers, rabbis, and members of faith communities across Montgomery County. These include an large evangelical church in Spencerville, an independent Christian Church in Germantown, Jewish congregations in Rockville, and a Unitarian Church in Kensington.

This letter, addressed to the County Council, supports the Park and Planning recommendation that there be a 15 percent impervious cap on private development in the Agricultural Reserve.

Why? As the letter states:

**"We believe Biblical principles and the need to nurture Creation call us to protect this important wildlife habitat and open space resource."**

**"The biological diversity of life in the Agricultural Reserve area is a blessing that should be cherished; the area's low density and traffic also contribute to regional air quality."**

Some of the signers are very familiar with the county's environmental regulations. My own church dropped a proposal to add parking because it couldn't afford the required stormwater facilities. Church life continued, though – we now have two services so as to spread out the need for parking through the morning.

Listen to Brian McLaren, founding pastor of Cedar Ridge Community Church in Spencerville:

**When we began the process of buying land and building our current facility (back in 1995), we**

(23)

**faced very strict regulations both in terms of historic preservation and the environment. In particular, we had 10-12% imperviousness restrictions and tough storm water management regulations: there's no question that they were costly and limiting, and I'd be dishonest if I didn't say we complained a bit. But looking back, we feel great satisfaction with what we've done here.... As committed Christians, we believe the earth is the Lord's, and we feel it has been an act of worship and faithfulness to seek to respect the ecosystems we are part of.**

I'd now like to yield the balance of my time to Dr. Molly Hauck, representing another signer of the letter, the environmental task force of the Cedar Lane Unitarian Church in Kensington:

(24)



5104 Elm Street, Bethesda MD 20814

April 13, 2005

## **TESTIMONY TO PRIVATE INSTITUTIONAL FACILITIES WORKING GROUP**

My name is Jim Humphrey and I am testifying in my role as a Vice President of the Montgomery County Civic Federation. The most recent MCCF position of record on a related issue is the May 1998 vote of the delegates endorsing a position that no special exceptions whatever should be granted to developers or road builders who propose to encroach on special watershed protection areas, no matter what precautions they assure may be taken. While I realize this does not specifically relate to impervious surface limits on PIF uses in the RDT, Rural, RC and RE-1 and RE-2 Zones, it gives me a sense of the concerns of our citizen assembly.

In researching the topic, I read the April 9, 2004 staff report to the Planning Board that led to the introduction of ZTA 04-27, noting an interesting statement: "Private institutional facilities have a significant public purpose that the Montgomery County Council wishes to reinforce through permissive policies." While our county elected officials might wish to adopt permissive policies for PIFs, nature will not. There is only so much rainwater falling at a given rate that can be absorbed by the earth. And, the high clay content of the soil in Montgomery County further limits the ability of rainwater to percolate down to the water table.

A September 2003 report of the Patuxent River Commission, posted on the Maryland Department of Natural Resources website, has relevance. The Commission stated that their "focus should be on water quality, not equity;" and, they stated their primary goals as "flood control, water quality, and natural resource value." In making recommendations to the Council for setting of impervious surface or ~~is~~ limits, please bear in mind that not just water quality but also flood control and natural resource value are relevant aspects to the general health, safety and welfare of the public. Equity or fairness in establishing the allowable land use for any individual property or class of properties, and the welfare of the people in having access to private institutional facilities, must take a back seat to safeguarding persons and property against flooding and ensuring the quality of water in the underground aquifers from which residents in these zones draw their drinking water.

- continued on back -

In my research I also discovered some simple truths. From page 9 of the April 2004 Planning staff report I read that "in any sub watershed, water quality is best assured by having total impervious surface 8% or below." The Anacostia Watershed Network points to the Upper Paint Branch Environmental Overlay Zone with its 10% *is* cap, approved by our County Council in 1997, as a highlight in the restoration of the Anacostia watershed. Yet when the Technical Working Group formed to work on that overlay zone was reconvened recently to study the effects, they found that even with the 10% *is* cap, there was stream degradation involving high sediment levels, streambank erosion, and loss of the biological community.

Other truths are that--

- stormwater runoff from buildings carries with it less pollutants than runoff from parking lots and driveways.
- leaving forested areas and naturally occurring vegetation in place, rather than mowed grassy areas, slows runoff and protects streams and quality of water in the aquifer.
- best management practices (*bmps*) are only effective to a limited degree in mitigating the negative environmental impact of *is*.
- regardless of what limit is placed on percentage of *is* for new PIFs, once a PIF is in place that percentage may increase in future due to modification (addition of a sidewalk, playground area, handicapped ramp, roof over a deck, etc.) or even expansion of the facility. I would suggest, therefore, that you recommend a lower limit on *is* than may be considered appropriate and necessary, leaving room for any future upward creep in *is* that might occur.

While I cannot register an official MCCF recommendation on the appropriate legislative approach, since no formal resolution has been adopted on this issue, I will note that the "recommended total lot coverage" of 15% for RDT and 20% for the other 4 zones (as specified on page 9 of the April 2004 Planning staff report) seems way too high, given that environmental damage has been documented to occur at 10% *is* in the county's watershed areas. I also suggest that when limits are established for percentage of *is* allowed for PIFs no additional flexibility in these limits is granted for any reason (e.g., inclusion of special needs, senior or affordable housing in a project, or for projects that meet "visitability" standards for physically challenged individuals).

Protection of the natural environment is like raising a child. In both cases, permissive policies can often produce undesirable results. And, you only get one crack at it--there are no "do overs." So, please make sure we get this right, that we set appropriate limits and insist on strict adherence to them. Thank you.

**Testimony to the Private Institutional Facilities (PIF) Working Group,  
April 13, 2005**

I own a 138 acre grain farm in the RDT zone, just north of Laytonsville. My fields grow corn, soybeans and winter wheat, thanks to the grain farmers, who rent and grow crops on my ground. This is a family farm, but my father was the last one of us who actually cropped the ground himself. Farming requires hundreds and hundreds of acres to make a profit in today's economy. I'm here tonight because 225 acres of ground that these farmers currently grow grain on, appears to be in jeopardy of going from grain farm to a church mega-complex. Apparently the church comes under the PIF use in the RDT Zone. If this happens, it ultimately affects me as well. Take enough land out of grain farming, and I believe that you ensure that the grain farmer goes away. If that happens there is no one to grow grain on my farm either, and ultimately I too will be forced to go away. This becomes a question of does Montgomery County truly value its rural areas and farmers or not?

On January 4, 2005 at a Laytonsville Town Council meeting, two of the ministers from the Derwood Bible Church gave a presentation that included their vision and plans for this 225 acre parcel at Rt. 108 and Griffith Road. They said that they were about to take ownership of the ground and hoped to start building by 2006. Their plans include: a church to seat a 1500 member congregation, an educational building, parking lots, access off of either Griffith Road or Rt. 108, multiple playing fields for sports, buildings to house people who are part of a prison ministry, a school, a cemetery, stables, a septic field that will cover at least 16 acres, and a well water system to supply this plan. So, when is a church a church and when is it a mega-complex? Also, what happens with the 9 TDR's that the 225 acres could currently accommodate for houses? Are they required to build this complex, or can they be used separately and there could be this complex plus 9 houses?

I called the main minister for Derwood Bible Church and shared my concerns. He said he was talking with the grain farmers and with both sod and tree farmers, as well, and that he was looking to only have agriculture continue on a part of the ground because of his plan to start building in 2006. Part of his concern was the dust that a grain farm creates. Well, this property has grain farms on three sides of it. People have a right to do what is allowed on their own property. However, once you take the grain farmer off the ground and go to sod or trees, you never go back to grain again. Then eventually the sod or the trees will become a golf course and then the golf course will 'grow' houses and by then the agricultural ground will be long gone.

I want to support and keep agriculture alive in Montgomery County. When does what I have just described push beyond the edges of the initial intent of the institutional uses currently allowed by right in the RDT zone? Likewise, I was shocked when I learned that a church could move to an RDT zone and then apply for water and sewer. Bring water and sewer to this property and you destroy the RDT zone. Why not require clustering of church buildings on a small percentage of the ground ( 10-20%) and require that the rest remain in agricultural use? This was actually what I thought was the intent

of the RDT zone . When is there a limit on the size of the complex that an institutional facility can put in an RDT zone and why are there not greater restrictions on it, that require farming be kept on 80 to 90% of the ground? We happily live in the RDT zone. We'd like to be able to stay there keeping the fields in grain for generations to come.

Jane Griffith Evans  
6001 Griffith Road  
Laytonsville, MD 20882  
301-253-9449  
ortisevans@aol.com

Clarksburg Civic Association  
P.O. Box 325  
Clarksburg, Maryland 20871-0325

April 13, 2005 Testimony for Public Forum on the environmental impacts of private institutional facilities in RDT, Rural, Rural Cluster, and Rural Estate Zones:

The Clarksburg Civic Association has consistently supported the preservation of the Agricultural Reserve and other rural areas. We have opposed several nearby proposed projects, such as a daycare, a fire department event facility, and a church, in large part because they have sought to bring water and sewer to these rural areas, which is not what was intended in the master plan, and would potentially make it easier for future development of the Ag Reserve. We do not mean to imply that we do not want these facilities as our neighbors, we just feel that there are more appropriate zones where they could be located; those that have been *master-planned* for water and sewer. As a Civic Association, we have worked very hard on our Master Plan, and we do not take changes to it, or the neighboring plans, lightly. Most of us have come to terms with the intense development that is now happening in Clarksburg, because we have had a hand in planning it, and because we know that Montgomery County must have intense development in some areas, in order to save others. Sacrifices have been made in Clarksburg, as well as other areas in the county, so that the Ag Reserve can remain a place of refuge for all of us who value clean air and open spaces. The current policy of slowly chipping away the Reserve is therefore somewhat of a betrayal to us. The Clarksburg Civic Association also has a deep interest in seeing that the water quality in our neighboring areas does not deteriorate due to increased imperviousness. Aside from the fact that we should strive for good water quality in all of our streams, Clarksburg is in a Special Protection Area, meaning that there are provisions in our development plans to attempt to maintain our excellent stream and groundwater quality. Even so, I've been told by some County officials that although they are doing everything they can in terms of stormwater management, this will be an extremely tough job, given the amount of imperviousness planned for Clarksburg. We could use all the help we can get to ensure that our well water and stream water in Clarksburg remains excellent. Our best chance to get this help is to ensure that the surrounding streams, flowing into our streams, are of the best quality. According to area environmental groups and the Center for Watershed Protection, any imperviousness cap that is being considered should be set at 8% in order to ensure this.

I was happy to see an option which discusses best management practices. While we would certainly not think that this option alone is enough, the Clarksburg Civic Association encourages sustainable development, which includes using best management practices like permeable parking areas, rain gardens, and green roofs. With such practices, a development applicant should be able to meet a lower imperviousness cap requirement, and at a potentially much lower cost to themselves. In fact, my own church in Germantown is saving a lot of money, and the local stream, by using a pervious paving material, and rain gardens for their parking lot. It simply doesn't make sense *not* to use these best management practices, anywhere in the county.



In conclusion, we would like for any new requirements to meet three basic criteria (just one of these would not be enough): 1. maintain the integrity of the master-planned water/sewer envelopes, 2. set an imperviousness cap that would not allow water quality in rural areas to go down, and 3. encourage best stormwater management practices.

Krisna Becker  
Vice President, Clarksburg Civic Association



Testimony to the Working Group on PIF Uses in the Rural and Rural Estate Zones  
April 13, 2005  
Presented by Margaret Chasson

The League of Women Voters of Montgomery County (LWVMC) arrives at positions through a process of fact gathering, discussion of issues related to the facts and consensus development. During the past four years an active study of agriculture in Montgomery County addressed agricultural land preservation, the TDR program and the viability of agriculture in this county. A representative number of our 660 members have discussed the facts and issues relating to these topics and have achieved a number of consensus positions.

The positions dealing with sewer category change requests for PIFs are:

- The LWVMC supports the preservation of productive farmland as the primary design factor for development in the RDT zone.
- LWVMC supports restricting sewer and water service beyond the established service envelopes.
- LWVMC supports denying all requests by private institutional facilities (PIFs) for new or expanded service beyond the envelopes.
- LWVMC supports consideration of service to PIFs already operating in the RDT zone to maintain their current level of operation with sizing WSSC capital projects to serve only a PIF; denying any request for a new WSSC pump station; permitting only the PIF to apply for service; providing County Council review of all PIF requests for service to properties abutting a sewer main.

Numerous studies have established that water quality of streams and water supplies are adversely affected from contaminants washed off the surface of land by storm water with impact beginning at 8% imperviousness and degradation at 30% imperviousness. While we have no position on a specific level of imperviousness to be permitted, we strongly support measures to protect stream water quality and agricultural land and urge you to formulate control consistent with the research.

The Functional Master Plan for the Preservation of Agriculture and Rural Open Space relied in part upon the restriction of sewer into the Agriculture Reserve and the low percolation rate of the soil to preserve agricultural land. Since the adoption of the Functional Master Plan the definition of agriculture has been changed and equestrian facilities have become a permitted use in the RDT zone. We have concern that the soil and water conservation plans required for this use have not been developed and implemented in many cases. Perhaps the proposed ZTA on imperviousness applied to the RDT as well as other rural zones is needed in addition to limits on sewer extensions to achieve the goal of protecting stream water quality and agricultural land.

13 April 2005

**Testimony for the Interagency Working Group on the Environmental Impact of PIFs in the Agricultural Reserve and Other Low Density Zones by Jane Ann S. Wilder representing Citizens to Save South Valley Park and Whetstone Run.**

I am here on behalf of Wildcat Branch because it itself is a poster child for the inherent wrongs in the current PIF (Private Institutional Facilities) exception system in the Agricultural Reserve.

Wildcat Branch is a rare, delicate Use III stream, that is a trout reproducing, located in the Goshen - Woodfield planning area right in the middle of a target spot for proposed PIF projects (also along the revised, ill-advised route for M-83 Mid-County highway which violates the Agricultural Reserve which we continue to fight). There are only about 5 trout reproducing streams in Montgomery County. They are so rare because they require very cool, very pure water. Putting excess impervious surface, which heats and pollutes water, in this delicate area will destroy this rare natural resource.

The Code of Maryland citation designating Wildcat Branch a Class III stream cites the reason for this designation is to "ensure existing uses are fully protected". Thus, allowing such a huge amount of impervious surface and a sewer line in this place will fly in the face of this State designation.

We feel that revisions to the Water and Sewer plan noted by the Working Group would be the strongest way of protecting such natural resources. Accordingly we would recommend a maximum cap of 5% impervious surface in PIF areas. Designation of such delicate areas as Special Protection Areas regarding development will also help. (These must be much stronger than the current ones in Clarksburg, however.) The environmental overlay concept in the Zoning approach is also useful.

If a PIF system is allowed at all it should require submission of a pre application review before P&P, DEP, DPS and other County agencies, even State and Federal if necessary, along with traffic studies (Wildcat Rd., a certified Rustic Road, in the area will also be negatively impacted).

In addition the applicants should be required to use enhanced Best Management Practices (BMP)s to reduce negative environmental impact to a negligible level.

In no case should we lose an irreplaceable resource like Wildcat Branch to development of any kind or a highway. It is simply not in the public interest.

Jane Ann S. Wilder  
Citizens to Save South Valley Park and Whetstone Run  
9969 Lake Landing Rd.  
Montgomery Village, MD 20886  
301-208-1828 and RWi3206724@aol.com

Public Forum  
PIF Uses in the Rural and Rural Estate Zones  
April 13, 7:30 PM

Testimony  
of  
James R. Clifford, Sr.  
for the  
Montgomery County Agricultural Advisory Committee

My name is James Clifford and I am a farmer member of the Montgomery County Agricultural Advisory Committee. I have been asked on behalf of the Committee to present the following testimony. Our committee is concerned about the impact Private Institutional Facilities have in the Ag zones. It's the expressed intent of the Ag zones to preserve the rural area of the County for agriculture and other natural resource development. The Ag Reserve was created to promote agriculture as the primary land use in a section of the county designated for agricultural preservation. It is the expressed intention of the zone to permit farming and not to restrict farming within the zone. Our fear is that the legislation being proposed, in particular the creation of a fifteen (15%) Impervious Cap within the RDT zone, would render a result contrary to the expressed intent of the Ag Reserve.

Most of our concerns could be addressed by exempting agricultural uses from any policies or regulations which attempt to control Private Institutional Facilities. However, in addition to agriculture uses, we are also concerned that you address how you will handle improvements on smaller lots in the RDT zone which are grandfathered under the Montgomery County Code. We also question how the Impervious Cap would relate to Child Lots in the RDT zone. Would the 15% Impervious Cap apply based on a calculation of the Child Lot as it stands alone or in conjunction with the entire farm from which it was created?

Additional concerns and comments can be found in our Chairman's letter to Mr. Levchenko dated April 11, 2005. This is a complicated application and all scenarios should be well thought out and addressed in the language of the legislation.

Thank you.

James R. Clifford, Sr., Esq.  
301-840-2232



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## AGRICULTURAL ADVISORY COMMITTEE

April 11, 2005

Mr. Keith Levchenko, Legislative Analyst  
Montgomery County Council Staff  
100 Maryland Avenue  
Rockville, Maryland 20850

Dear Mr. Levchenko:

On behalf of the Montgomery County Agricultural Advisory Committee (AAC), we appreciate this opportunity to present comments on the Private Institutional Facilities (PIF) working group as part of the public meeting that is scheduled for Wednesday, April 13, 2005. It is our understanding the (PIF) working group is conducting several meetings for formulating recommendations that will be submitted back to the County Council. These recommendations will focus on how best to avoid, minimize, and mitigate the environmental impacts of PIF uses in the RDT and rural estate zones. The PIF working group is also requesting public input as part of the public forum.

The AAC is concerned regarding the increasing number of Private Institutional Facilities (PIF) such as private schools, churches as well as other religious-educational uses that are developing in the agricultural zones. The magnitude of some of these uses are so large and represent such a significant impact on the specific property, as well as the surrounding community, that additional conditions are needed by the County Government for reviewing and approving them. The AAC is aware of the recommendation from the M-NCPPC to adopt a new Zoning Text Amendment that would create new standards (15% limit in the RDT Zone) for controlling PIF uses through impervious surfaces and/or total lot coverage requirements. While the AAC understands the proposed ZTA is on hold until the PIF working group completes its charge and reports back to the County Council, the AAC wants to go on record regarding our views and we respectfully request that new policies and regulations adopted by the County Government must address and be sensitive to the items listed below.

- . Agricultural uses should be exempt from new policies and regulations which attempt to control PIF uses.
- . Any gravel areas used in conjunction with Agriculture should also be exempt.
- . The agricultural uses covered under an approved MSCD plan should be sufficient to address any environmental/impervious surface objectives. This suggestion already represents a legal precedent with the County Council. *Example: Storm Water Utility Strategies*
- . We need to know how small lots created prior to 1958 be treated?
- . The grandfathering clause will need to be clearly defined and updated.
- . Does the ZTA formula apply to small lots versus the entire farm?
- . Some Agricultural Buildings are not exempt from the Building permit process and the County Council needs to understand this fact as new policies and regulations are considered.
- . Will Farm-children lots also be impacted by the 15% impervious limit and will the calculation be applied on the lot itself, the remainder, or both?
- . The growth of PIF uses represents a threat to the Agricultural Reserve where Agriculture is identified as the primary land use.

The AAC wishes to extend our appreciation to the PIF working group for providing this opportunity to present our views. Our staff representative Jeremy V. Criss will be available to further advocate the interests and views of Montgomery County farmers.

Sincerely,

*William F. Willard, Jr.*

William F. Willard, Chairman

a:willardaac(aac05)

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**Montgomery Soil Conservation District**  
18410 Muncaster Road - Derwood, MD 20855 - Phone (301) 590-2855

April 13, 2005

Mr. Keith Levchenko, Legislative Analyst  
Montgomery County Council Staff  
100 Monroe Street  
Rockville, MD 20855

Dear Mr. Levchenko:

The Montgomery Soil Conservation District (MSCD) Board of Supervisors would like to provide input regarding the Private Institutional Facilities (PIF), including our strong opposition to the impervious cap proposal for agricultural zones in Montgomery County. It is disappointing that the agricultural community has to continually expend tremendous energy to protect ourselves from one issue after another in Montgomery County. While other counties in the state are busy promoting and encouraging agriculture, our legislators seem determined to over regulate and restrict our industry right out of existence.

The Agricultural Reserve was established to preserve agriculture and the many public benefits and amenities that come with the open space associated with farming. Agricultural operations have a positive impact on soil conservation and water quality. In fact, according to the Department of Environmental Protection, the highest quality streams in the County are found in agricultural areas. On the other hand, PIFs generally have high levels of imperviousness and present a number of challenges regarding water quality, sediment control, and traffic. This seems to be contradictory to the intent of the Ag Reserve. In fact, the approval of water and sewer for these facilities by the County seems to be in conflict with the overall County Master Plan. And now to fix the mess you want to put new restrictions on all land uses including agriculture? Is it any wonder that farmers are increasingly frustrated by this county and their penchant for regulations?

The County should not apply urban development restrictions to agricultural operations. Some landowners farm thousands of acres, but their buildings and facilities are on small parcels of land. Farmers could be dramatically affected by these new regulations including this Zoning Text Amendment (ZTA). Regardless of the size of someone's operation, no farmer can afford the time or expense of submitting to the County permitting and review process that would be necessary to institute this ZTA. The MSCD recognizes that farmers are the minority in this County. But do the people of Montgomery County realize what will replace our agricultural industry when the County government finally succeeds in regulating us out of business?

Mr. Keith Levchenko  
April 13, 2005  
Page 2

As the County develops new policies to govern PIF uses, we believe the whole idea of the ZTA is fundamentally wrong, but we are especially concerned about receiving an exemption for agriculture. The MSCD respectfully requests that the County Government provide an exemption for all agriculture operations in the County from any impervious surface requirement.

We hope the County Government will continue to protect agriculture from new policies and regulations that are designed to control PIF uses. The MSCD looks forward to your attention to this matter.

Sincerely,  


Wade Butler, Treasurer  
MSCD Board of Supervisors

## **The Evangelical Lutheran Church of the Redeemer**

27015 Ridge Road • Damascus, Maryland 20872 • Church Office: 301-253-3000

Pastor Raymond C. Scheck

April 13, 2005

My name is Deborah Tomlinson. I represent the Lutheran Church of the Redeemer, located at 27015 Ridge Road, in Damascus. I appreciate the opportunity to speak before this Working Group. In the past ten years, representatives including myself have attended dozens and dozens of meetings with various agencies in Montgomery County.

The church has been located at its present location since the early 1960's. The growing congregation has been in the midst of a community growing by leaps and bounds. Presently, literally thousands and thousands of new homes are being constructed around the community of Damascus. In order to keep up with the growing community over the years, the church has constructed two additions. We are in dire need of constructing our third and final addition which was approved as a future addition on our present site plan in 1996. The problem we have is that we also need to construct additional parking spaces to accommodate the additional seating capacity of the proposed Sanctuary.

In October 2003, the Lutheran Church was denied revisions to our preliminary plan by the Maryland-National Park and Planning Commission, pursuant to section 50-32 of Subdivision Regulation and to limitations for Development in the Patuxent Watershed. In hopes of finding a solution, we began working with Vince Berg, with a plan to use off-site mitigation to cover the impervious area of our proposed parking lot. We attended meetings with our Council representative and various other agencies, including The Maryland-National Park and Planning Commission representatives. At the meeting it was agreed that this would be a solution, but when the individuals at Park and Planning got together, they decided that we must purchase building lots for mitigation, which would cost the church millions of dollars.

Park and Planning staff has also suggested that the church construct a parking garage over its existing parking lot. After having engineers pursue preliminary plans, the conclusion is that the costs are once again cost prohibited for the church. Our only other option was to pursue purchasing property across the street which we have tried to do but, the neighbors are not in the position to sell their property.

On top of all of this, I can't begin to tell you how many meetings we have attended with the Department of Public Works and Transportation. This is due to the fact that Montgomery County is planning to construct the Woodfield Road Extension and it is planned to go through our property. The land-take process will require us to lose several existing parking spaces. Ironically, due to growth in the community, a road is granted exceptions to develop in the Patuxent Watershed and also through a conservation easement imposed on the church.



The bottom line is that Redeemer along with several other congregations are caught trying to add to our parking and building on lands purchased long before all these new guidelines were developed and are being developed. It is almost impossible to grow on the land we purchased years ago under these additional guidelines. It is our simple request that the county council make some special exceptions for churches that have already existed in Montgomery County, despite the development and environmental guidelines that have been approved by the Planning Board. We have no where else to go. All of the other land in our community, including nearby Clarksburg has been designated for developments of housing subdivisions.

Thank you again for your attention to this matter.

Sincerely Yours,

Deborah Tomlinson

Deborah Tomlinson  
The Lutheran Church

Good evening. My name is George Lechliden and I am president of the Montgomery County Farm Bureau. We presently have 1700 families in our association.

We in the Farm Bureau, know that if you want to keep agriculture in Montgomery County we have to be able to make a living.

Every time you put a golf course or church in the agriculture zone you create a problem. Because you create more traffic and it is almost impossible now to get or equipment up and down the roads.

If they would just put up the church it wouldn't be so bad, but they always add playgrounds and half-way houses. This creates tremendous problems for us in agriculture. Because they figure our fields are their playgrounds and they ride their four-wheelers and bikes over our crops. Where the pick-up and four wheelers run it creates a small gully for water.

We are also afraid that you will add impervious area caps in the agriculture zones. This would create quite a problem for agriculture. As we have to have our buildings in close proximity.

The Soil Conservation Board does a very good job at the present time of controlling water run off on farms. It seems to agriculture someone is either adding taxes or putting some rules and regulations to cost us a considerable amount of time and money. For example we have the nutrient management program that is costing anywhere from \$1,500 to \$4,000 per year, plus our time and record keeping.

We are not against private institutional facilities as such but locate them on land that already has water and sewer.

I don't blame them for wanting to buy our land in the agriculture reserve because they can buy it for less than half what it costs elsewhere. When the county put us in the agriculture reserve they took four fifths of the value from us. This policy was designed to preserve agriculture, not provide cheap land for private institutional facilities.

The Council needs to show their support for agriculture by keeping farmers free from any impervious cap on our land. If a policy must be drafted to deal with impervious issues created by institutional facilities, the agricultural community should be exempt. We have managed this land for hundreds of years. Hopefully, the county isn't determined to undermine that legacy.

## Testimony on Restrictions on the Amount of Impervious Surface in Rural or other Areas that Need to Minimize Runoff.

by Barbara Medina, 11983 Old Columbia Pike, Silver Spring, MD 20904

I want to add to this discussion two things that are important to the issue of restricting impervious surface. The first thing is how and why the concept of restricting the amount of impervious surfaces in an area came about. The second item is the work of the National Council of Churches (NCC) and other faith based organizations who are working to let the public know that the holy books of the major religions of the world dictate that each individual must be a steward of God's earth.

On the first item, the Upper Paint Branch Task Force was formed to advise the County Council and the County Executive what regulations were needed to protect the good quality water in the Paint Branch from the on-going destruction of streams and rivers throughout the county. This was an economic issue as well as an environmental issue because the County was spending millions in an effort to meet the requirements of the Clean Water Act. The task force studied not only local streams and rivers but also what techniques had helped other jurisdictions reduce their spending on clean-up protection projects while still improving the quality of the stream and river water to meet the standards set by the Clean Water Act.

The first chore was to discover where the pollution was coming from. We discovered that the storm water flowing off streets and other impervious surfaces was the carrier of toxins left behind by cars and other pollutants dumped on our streets and fertilizers and pesticides from our lawns. Fertilizers are one of the major sources of the build up of algae in the Bay and the Potomac River. The algae blocks sunlight which limits the Bay grass that shellfish and fish need to protect their eggs and young. The toxins are polluting streams and rivers, the volume of sediment that is in the storm water rushing into the streams is eroding stream banks causing the trees that protect the stream to fall in; often exposing leaking sanitary sewer lines and allowing untreated sewerage to flow into our streams. The least expensive solution was to reduce the volume of storm water and the number and sources of toxins.

The task force came to the conclusion that the Upper Paint Branch watershed had to be protected by an 8% cap on the amount of impervious surface to retain the quality of water in the stream. We know now that while this does lower the impact of storm water on the head water tributaries of the stream, the high density of paving and development in the rest of the watershed is causing severe deterioration along the rest of the stream. Over the years there have been extensive, expensive repairs needed and lately new repairs have been identified.

The Paint Branch study and follow ups and the impact of the actions taken along with the importance of the northern region of Montgomery county to the sources of our drinking water led to the recommendation by the planning staff to limit the impervious surface.

Finally and briefly. Many faith based organizations were concerned because not enough ministers, priests, immans, rabbis and other religious leaders in the U.S. were speaking out about the need to have clean air and water to protect people from poisons and irritants that cause diseases, allergies and sometimes death. The Federal Government is weakening protection and restoration efforts and some faith leaders are actually praising the Government's action. This dangerous turn of events was a call to arms for these organizations who have established web sites (see attached) and are sending communications to anyone willing to listen to why these issues must be addressed by religious leaders and people of faith.



## NEWS from the National Council of Churches

Contact NCC News Service: 212-870-2252 | E-mail [news@nccusa.org](mailto:news@nccusa.org) | [Most Recent Stories](#) | [NCC Home](#)

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### NCC OPPOSES SENATE BUDGET RESOLUTION TO ALLOW DRILLING IN THE ARCTIC NATIONAL WILDLIFE REFUGE

Washington, D.C., March 16, 2005 – The National Council of Churches USA today (March 16) released the following statement:

"We express profound grief at the Senate's decision to include drilling in the Arctic National Wildlife Refuge as part of the budget resolution. Rather than reduce our consumption of oil and begin to move our nation toward clean energy alternatives, our elected officials are once again charting a course that is both unjust and unsustainable.

"Sacred scripture teaches us unequivocally that we have a responsibility to care for God's creation and to be good neighbors. As people of faith, we also bear witness to the Biblical mandate to care for the least among us. Drilling for oil in such a fragile place contradicts both of these Scriptural commandments.

"Our call to protect all of God's creation extends to communities such as the Gwich'in that would suffer the most from this Senate decision. To risk the destruction of both an untouched wilderness and an ancient culture violates all that Western civilization understands as our Christian responsibility to people and planet. We call on the Senate to prevent the passage of any legislation that includes the possibility of drilling in one of the Creator's most precious places.

-end-

Media Contact: Leslie Tune, 202/544-2350, ext. 11; [ltune@nccusa.org](mailto:ltune@nccusa.org)

[Return to NCC Home Page](#)

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(22)

**TESTIMONY at Public Forum**  
**PIF Uses in the Rural and Rural Estate Zones**  
**Montgomery County Council Building**  
**April 13, 2005**

Good evening. For the record my name is Vincent Berg and I live in Derwood and I am the owner of Forestry and Conservation, Inc. and Urban Environmental Products. I am speaking this evening representing myself. I have worked for the last 13 years with farmers and rural landowners and with design engineers. I am also a member of the Agricultural Advisory Committee and a registered Professional Civil Engineer.

Thank you for the opportunity to participate in the Public Institutional Facilities (PIF) Forum. Your title describes the issue your group is trying to resolve concerning development of large institutional facilities, such as houses of worship. My first reaction is why not address the issue instead of throwing a blanket over the problem. Small and Medium size houses of worship have been compatible land uses with neighborhoods in the past. Today the very large houses of worship can cause issues and impacts in neighborhoods and those should be addressed by requiring Special Exception approval for these large facilities, with an appropriate set of criteria.

The other issue is why are houses of worship in the RDT zone allowed to have public water and sewer service. It was not the purpose of this zone to have public sewer and water facilities serving intense land use developments. The Master Plans have made this point very clear. The Council needs to follow their approved Master Plans and Water and Sewer Policies on this issue.

If the proposed Zoning Text Amendment were to move forward as structured, I would propose the following addition to Sections 59-C-1.32 and 59-C-9.4.

***Additional acreage, by purchase or permanent easement dedicated for conservation purposes may be added to the property acreage when computing the percentage of impervious surfaces.***

In addition, I have developed a stormwater management technique that captures runoff from impervious surfaces such as roofs and paved and gravel areas and makes them hydrologically act as if these areas are green spaces. Using an underground chamber system the runoff is collected, stored, percolated and recharged back into the ground. This system can make impervious areas react as if they were green pervious surfaces. This system is currently used and approved by the Department of Permitting Services for stormwater management control for development projects. I have attached a simple sample for home construction.

If the proposed Zoning Text Amendment were to move forward as structured, I would propose the following addition to Sections 59-C-1.32 and 59-C-9.4.

*If stormwater management techniques are used that will replicate pervious runoff characteristics then the impervious areas controlled by these techniques shall be considered pervious.*

I believe if these two suggestions are incorporated into the ZTA then the intended flexibility of design and goals of the ZTA can be accomplished.

I thank you for the opportunity to participate in the PIF Forum.

#### FORESTRY AND CONSERVATION, INC.



VINCENT H. BERG  
Forest Mitigation  
Mitigation and Conservation  
With Benefits For All



15716 Buena Vista Drive  
Derwood, MD 20855  
Fax 301-519-0811

Office 301-948-1686  
Office 301-519-2374  
Cell 301-257-8362  
Email: bergvh@erols.com



Urban Environmental Products  
Serving The Stormwater and Wastewater Communities

Vincent H. Berg, P.E.  
Senior Environmental Engineer

15716 Buena Vista Drive  
Suite 308  
Rockville, Maryland 20855  
301-948-1686-Home 301-257-8362-Cell

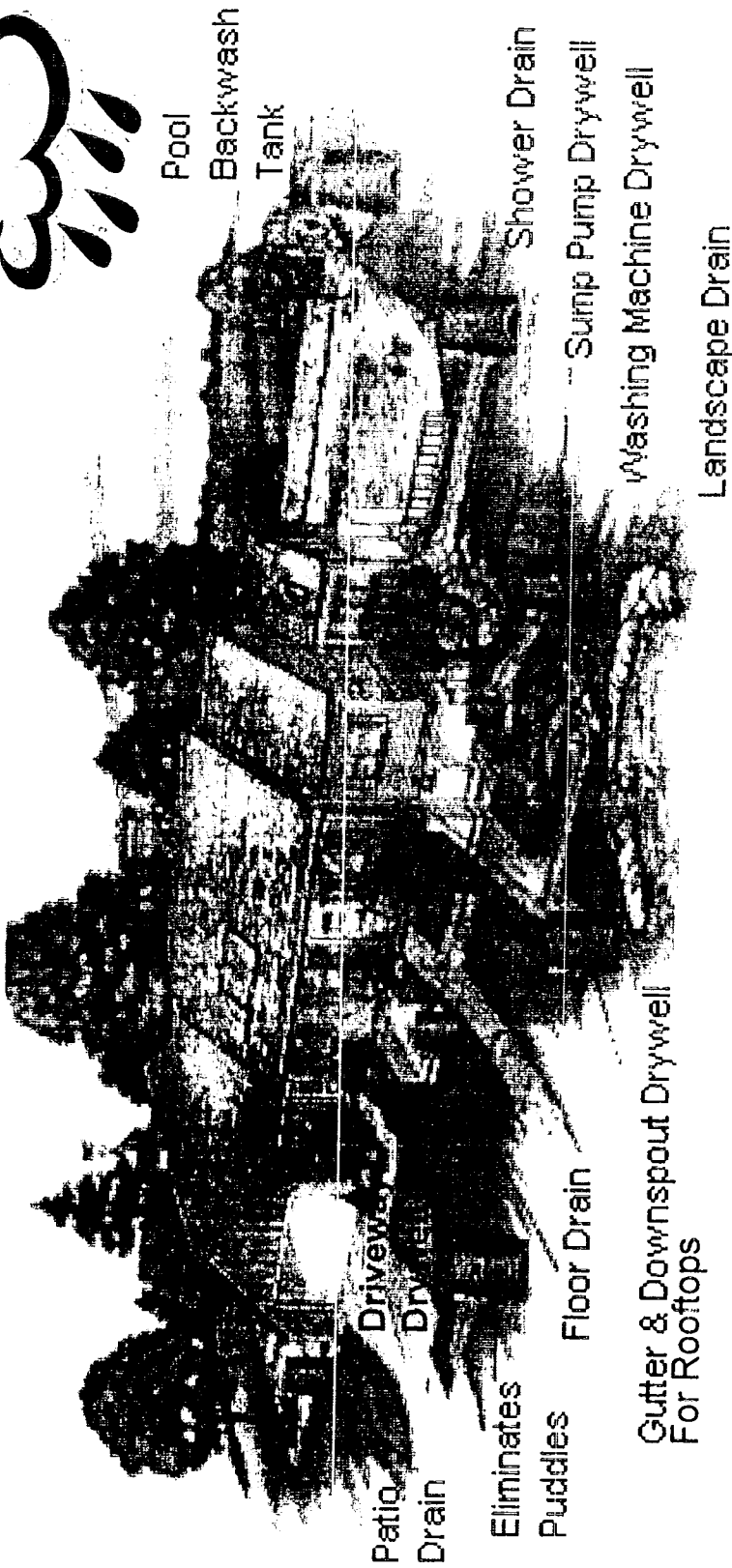
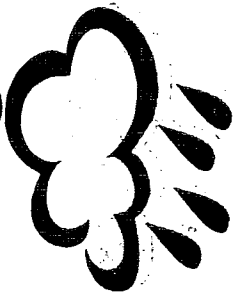
Office 301-519-2374  
Fax: 301-519-0811  
Email: bergvh@erols.com



## Low Impact Development Option 1 on 1,000 s.f. Roof = 624 gallons

## 1-RechargeChamber=8 Rain Barrels = 417 gallons

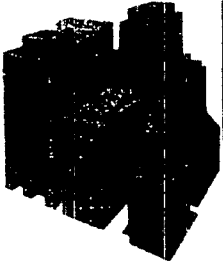
1 RechargeChamber with Stone Backfill = 1,039 Gallons



## Single-Family Stormwater Solution

Urban Environmental Products  
Vince Berg - Senior Engineer  
15716 Buena Vista Drive  
Rockville, Maryland 20855  
301-519-2374 [bergvh@erols.com](mailto:bergvh@erols.com)

Low Impact Development  
Option



# Urban Environmental Products

*Serving the Stormwater and Wastewater Communities*

15716 Buena Vista Drive  
Suite 308  
Rockville, Maryland 20855

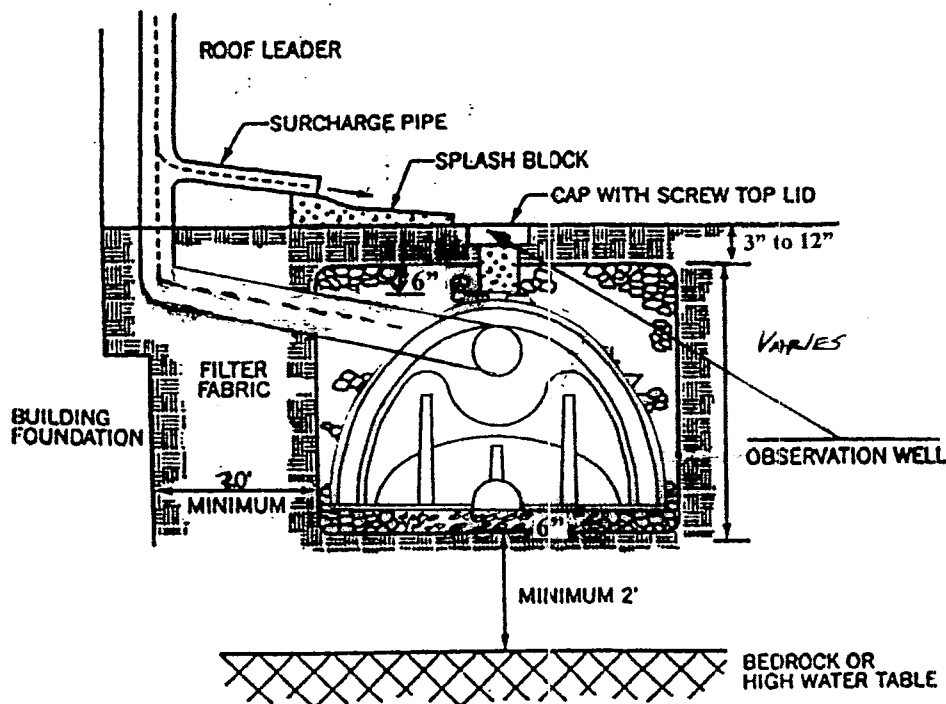
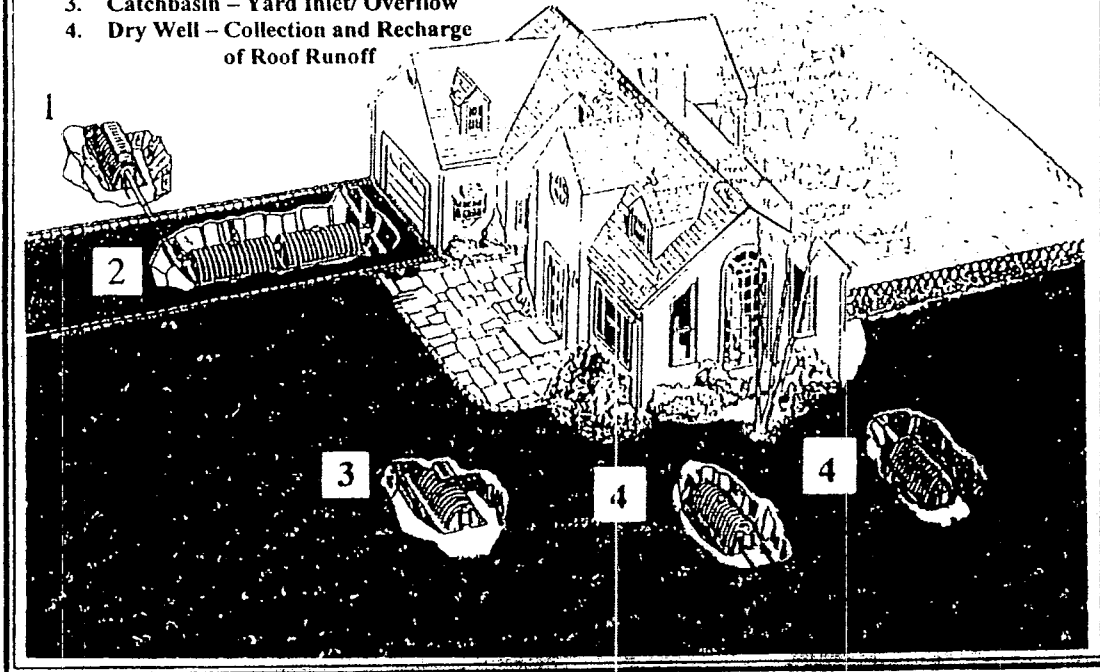
Phone: 301-519-2374  
Fax: 301-519-0811  
Home: 301-948-1686  
Cell: 301-257-8362  
Email: bergvh@rcn.com

## Example Site Design Using Polyethylene Chamber Systems

### --Low Impact Development Option--

#### Examples of How to Recharge Runoff From House

1. Catchbasin - Trench Drain Inlet
2. RechargeChamber - Under Traffic Areas
3. Catchbasin - Yard Inlet/ Overflow
4. Dry Well - Collection and Recharge of Roof Runoff



Example dry-well design. (Prince Georges County, 2000)

--Modified to Use RechargeChamber--

## PIF Working Group

The Linthicum family has been farming in Montgomery County since 1828, which represents six generations. In recognition of the County's support of agricultural enterprises in the Agricultural Reserve areas, our family specifically purchased approximately 1,100 acres within the Agricultural Reserve area (near Laytonsville) to continue our passion and love for agriculture as a result of being squeezed out of the Boyds/Clarksburg area by rapid development.

Our family feels that Private Institutional Facilities (PIFs) do not have a place in Agricultural Reserve areas for the reasons below:

- 1) PIFs create a loss of productive farmland as they remove viable land mass out of agriculture production within the Agricultural Reserve areas which contradicts and is counterproductive to the critical land use issue stated in page 8 of the Preservation of Agriculture & Rural Open Space Master Plan (Master Plan) adopted in October 1980.
- 2) In addition to the loss of productive farm land, PIFs in Agricultural Reserve areas negatively impact viable farming income/operations, farm families, the agricultural economy within Montgomery County, and the overall agriculture community as it sees little future for itself and its offspring trying to preserve rich agricultural heritage. Once agricultural land is taken away it is not replaceable within Montgomery County due to development pressures and growth.
- 3) PIF impervious surfaces cause environmentally unsafe water runoff to be absorbed by adjacent parcels of farmland. Farmland that is under constant scrutiny by local agencies to ensure that adequate environmental procedures are in place and properly executed.
- 4) PIF light pollution interferes with the day/night cycle necessary for proper plant growth which reduces crop yield, income and negatively impacts the agricultural economy.
- 5) PIFs directly contribute to increased traffic on rural roads in the Agricultural Reserve area. These roads are frequently used by farmers to move agricultural equipment. Increased traffic negatively affects the mobility of the agricultural community making it far more difficult to move equipment and poses more safety risk to those engaged in farming and those sharing the road with them.
- 6) PIFs with proposed complexes that include educational facilities, ball fields, picnic pavilions, camping areas and transitional housing/facilities are not permitted or special exception land uses according to the Master Plan (pages 82-84).
- 7) The size of most PIFs requires the use of public water and sewer service. The Master Plan specifically recommends the denial of public water and sewer service to areas designated for agricultural preservation within the Rural Density Transfer Zone (page 59).

- 8) PIFs raise concern over the use of TDRs (if included in the land purchase) with respect to additional cluster development on land owned by the PIF.
- 9) Large scale PIFs are more suitable in the densely populated and zoned areas of Montgomery County rather than in rural agricultural areas in the Agricultural Reserve where they stand to disrupt agriculture's rural character. Areas with existing road/water/sewer infrastructure would reduce the environmental impact of these facilities.

In many ways, construction of PIFs in Agricultural Reserve areas conflict with the intent of the Master Plan. The Master Plan specifically states on page 84 that the purpose of the RDT Zone in the Agricultural Reserve is to "promote agriculture as the PRIMARY land use in sections of the County designated in the General Plan by providing larges areas of generally **contiguous** properties suitable for agricultural and related uses..." Although local government cannot guarantee the longevity and economic stability of agriculture in Montgomery County, it can control development and protect the Agricultural Reserve land uses as set forth in the Master Plan.

The Linthicum family strongly encourages this committee to uphold the intent of the Master Plan to contribute to the continuation of farming and preservation of farmland by:

- 1) Closely analyzing PIF development proposals in Agricultural Reserve areas.
- 2) Denying PIF public water and sewer service requests in the RDT Zone of the Agricultural Reserve area.
- 3) Implement impervious surface guidelines suitable to all permitted land uses in the Agricultural Reserve area, <sup>exempting</sup> especially the viable agriculture industry.
- 4) Restricting PIF occupancy to 200 people as a means of maintaining the historical character of existing institutions in the rural Agricultural Reserve areas.

Thank you.

The Linthicum Family

Charles T. Linthicum, Sr.  
John G. Linthicum  
Tom Linthicum  
Paula Linthicum

**Testimony April 13, 7:30 PM**  
**RE: PIF Uses in the Rural and Rural Estate Zones**

My name is Carol Fanconi, I live at 21423 Uppermont Lane, Laytonsville, Maryland. I am testifying today in support of the current process of review and amendment to the PIF uses in the Rural and Rural Estate Zones to limit the environmental impact of private institutional facilities.

I appreciate the opportunity to present my views tonight. The work assigned to you is extremely important and I hope that all parts of the process will have transparency and will provide for appropriate public notice and comment prior to decisions.

As you consider the options presented tonight, I would request that the workgroup clarify what standards or criteria they will be using to determine which options will go forward to the County Council for consideration.

I encourage the workgroup to consider the following:

1. Comply with Master Plan, Comprehensive Ten Year Water and Sewage Systems Plan and the permitting processes involved in Park and planning processes.  
Residents in rural zones rely on the master plan and the rural designation to predict the growth potential in these areas. It appears that there is an unlimited loophole allowing for circumventing the usual processes meant to control growth by allowing PIFs in rural zones. The resulting policy on PIF uses in rural zones should result in assurance of the integrity of the agricultural zones and protection of the community from the influx of traffic and environmental degradation that are likely to occur if large institutions are allowed to build in these zones. No institution should be exempt from these processes and the special exception process.
2. Protect the county's valuable agricultural preserve: I strongly support maintaining land in the agricultural preserve for agricultural uses. I moved to this largely agricultural community 35 years ago and became involved in the farming community, support its activities and the life and culture of the community. Once build on the land will never return to farming. I appreciate the foresight of the past county officials in providing for this treasure and I believe allowing large Mega complexes to pave over large sections of farm land should not be allowable. A clear limitation on size, heights, impervious zones that exceed limits usually allowed within the rural and rural estates zones will assure that agricultural lands and rural areas are maintained, while continuing to allow for dense growth in more appropriate zones. Exceptions to the planning and zoning for these rural areas are not compatible with agricultural preservation no matter what benefit the church may bring to the county.

3. Support elimination of current policy of county council of extension of public water and sewer served to non-profit institutions in areas not otherwise eligible for public service.
4. Consider adding transportation impacts as well as environmental impact to your study. I live on Brink Road about a mile from the intersection of Brink with Rt. 108. The proposed PIF on the corner of Griffith and Rt. 108, if allowed to be built, will have a tremendous impact on the commuter and local traffic on Brink road.

Although this is not a hearing on this church per se, I would object to any facility of this size on this site. I live on Brink road. All the traffic from Gaithersburg will most likely use Brink Road as the main access to Rt. 108 to get to the site on Rt. 108 and Griffith Road. So I can anticipate that 800 + cars will come down this narrow 2 lane road and make a left turn at the light at Rt 108. There is no left turn lane (or shoulder) and currently during most of the day if a car wants to turn left at this light only one car gets through on each light because of heavy traffic on Rt. 108 bringing cars from Damascus and Carroll county. The roads in the upcounty are the same 2 lane roads that have served this mainly agricultural area for the last 80 years. The roads have not been widened and new roads built despite the growth in housing. However, a large institution requiring that large numbers of cars make that left hand turn not only on weekends but also on many days of the week will completely gridlock this part of the county. I am sure the T and E committee would want to consider all the impacts, environmental AND transportation when reviewing the PIF policy.

5. Limitations clearly defined to assure predictability: The county council policy on the PIF uses should be clearly defined and thus predictable and assure that decisions will be consistently implemented. This gives the maximum assurance to the citizens of the county and to the non-profit institutions that may want to relocate.

Without knowing the pros and cons of the various options proposed it is difficult to recommend any single option. However, as a taxpayer and involved citizen I am alarmed to find that churches apparently have the "right" to build certain institutions in the RTD, rural and Rural Estate Zones without a special exception or apparently the normal public notice and planning processes. I was also alarmed to find out last week that the Derwood Bible Church was planning a huge facility in my neighborhood with significant traffic impact and had scheduled presentations of what appear to be complete plans without any public notice, public hearings or any other process. The decision of this committee should not allow a "place of worship" to have a right to forego the planning process, zoning, special exception process that allow for appropriate review and public notice.

PUBLIC FORUM  
PIF Uses in the Rural and Rural Estate Zones  
April 13, 2005

My name is Mable D. Thomas. I reside at 200 Norwood Road, Silver Spring, Maryland 20905.

The stated goals of the Working Group are commendable.

Current loopholes which allow Private Institutional Facilities ( PIF's) in areas that are not eligible otherwise for public service make not only a mockery of master plans and the master planning process, but also make residential neighborhoods an endangered species. The proliferation of PIF's poses not only negative environmental impacts, but also can completely change the character of a community.

My neighborhood is a classic example of such encroachment. I live on Norwood Road in the Cloverly area. The area is zoned RE2 — which requires 2 acres for a single family home.

On the two mile stretch between New Hampshire Avenue and the Layhill - Ednor Road intersection, there are five existing churches, with a sixth scheduled for construction. In addition, there are two other houses in the community within a block of Norwood Road which also recently have been converted to churches.

Six of the churches - four within the last five years - were spawned from former single family residences. Because churches are not required to go through the special exception process, neighbors often are not forewarned of the intentions to use these properties for other than family dwellings.

The seventh church, Peoples Community Baptist, has applied for a change in sewer category which would allow for expanded facilities that we consider totally incompatible with the surrounding neighborhood.

In addition to the many churches, we share the two mile stretch of Norwood Road with two landscape businesses and a large senior high school - James H. Blake.

Our communities must be protected against such invasive and widespread development. The total environmental impact can be devastating. Those of us on well and septic have serious concerns about the threat to water quality and supply. Of equal concern is the negative impact of increased traffic, air and noise pollution.

The overall change in the character of neighborhoods must always be examined in light of homeowners' concerns. The zoning options on page 4 of your draft statement (particularly items 1 and 2) are important and should be given very serious consideration.



## Levchenko, Keith

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From: patricia Thomas [thomasp@georgetown.edu]  
Sent: Wednesday, April 27, 2005 3:51 PM  
To: Levchenko, Keith  
Subject: PIF Uses

(27)

To: Members of the PIF Working Group  
c/o Keith Levchenko  
100 Maryland Avenue  
5th Floor  
Rockville, Maryland 20850

Please accept the following comments regarding PIF Uses in Rural and Rural Estate Zones. Thank you very much for the opportunity to deliver this message in person on the evening of April 13, 2005.

I write to you on behalf of the Cloverly Citizens Association and the families in our community, many of whom share a life long legacy in the community. I represent stakeholders who are concerned about the proliferation of development in general, who wish to protect the environment (Chesapeake Bay Watershed), preserve the quality of living in a rural cluster and maintain consistency with the community master plan.

I commend the Council for establishing the working group to address the process of private institutional facility development in residential communities and for providing citizens with an opportunity to provide input. The impacts of existing PIF's as well as the threat of projects such as the proposed ICC are dramatic intrusions resulting in negative impacts in our community. Institutional uses must be limited in a effort to protect and preserve.

Please consider a text amendment that would strengthen the regulatory process. A thorough analysis suggests perhaps of combination of the various options that would strengthen zoning policy and limit the size and scope of PIF projects.

Environmental impacts in particular deserve heightened control. Sediment control is not the only issue, however the regulation of sediment control measures and methodology must be addressed. Perhaps one of the most egregious impacts is created by impervious areas - run off as well as effects on underground water resources which feed the vital watershed is a critically important issue. In addition to impervious area caps, the approval process must address footprint, height, design and other visual impacts, parking and ingress/egress. The inclusion of green building practices should be mandated. The number of PIF's per zone is another concern. In my neighborhood alone, there are at least 10 churches within a one mile radius of my home. The use of existing single family homes as churches is particularly insidious. When is enough, enough?

All of us bear the responsibility of taking care of the earth. The religious community in general must be reminded by citizens that we have an ecumenical responsibility as stewards of the earth. The current system must change - thank you for addressing these important issues.

Sincerely,  
Patricia A. Thomas  
15510 Holly Grove Road  
Silver Spring, MD 20905  
thomasp@georgetown.edu

(54)

# Stonegate Citizens Association

Silver Spring, Maryland 20904

28

To: Workgroup on Imperviousness in Large Lot Zones

From: Bruce Dunkins, Stonegate Citizens Association

Attn: Mr. Keith Levchenko, Legislative Analyst

My name is Bruce Dunkins and I am Chairman of the Legislative and Zoning Committee of the Stonegate Citizens Association.

The homeowners of Stonegate are deeply concerned about the ever expanding institutional uses in the RE-2 zones. The enormous amounts of imperviousness created by these institutions seem to run "rough shod" over the environmental protections provided by the zone.

While our position on this matter relates to the entire county, we are particularly disturbed by the expansions proposed by our neighbor, Peoples Community Baptist Church.

Peoples is currently an enormous institution serving thousands of churchgoers. We have interfaced with church advocates but have failed to be persuasive in the expression of our position.

Clearly the Church is worthy, but the community is entitled to some consideration also. Thus it is our position that intensity of use; total imperviousness; possible negative impact on the community as well as attendant degradation of the environment are all factors which merit close scrutiny in this process.

We understand the concepts of balance and fairness. We also understand incremental creep. Hence, we simply implore the Working Group to consider our concerns about the negative environmental impacts of expanded uses by Private Institutional Facilities in RDT and Rural Estate Zones of Montgomery County.

55

KL

RW

**Guthrie, Lynn**

**From:** Perez's Office, Councilmember  
**Sent:** Friday, June 03, 2005 9:36 AM  
**To:** Montgomery County Council  
**Subject:** FW: OPPOSE PIF in Ag Preserve - Laytonsville

015635

-----Original Message-----

**From:** cfanconi@comcast.net [mailto:cfanconi@comcast.net]  
**Sent:** Thursday, June 02, 2005 4:15 PM  
**To:** Perez's Office, Councilmember  
**Subject:** OPPOSE PIF in Ag Preserve - Laytonsville

Dear Tom; I know you are used to seeing my name associated with advocacy for children's health, but in this case I am making a strong case for your careful review of the PIF exception to the Agricultural Preserve that allows mega-churches to take land out of agriculture forever and have unanticipated negative impacts on rural communities. I appreciate the desire of the T and E committee for having a thorough discussion of the PIF policy and have testified before the council's PIF working group.

I support this review and ask you and the members of the T and E committee to carefully consider my arguments and those of other community members that will be severely impacted if mega churches are allowed to continue to use the PIF to circumvent the restrictions on building in the Agricultural Preserve.

I will be in attendance at your work session and will be closely following the decisions that so strongly affect our neighbors and our community.

As usual, the little guy has to depend on our leaders to do the right thing. I know I can depend on you and your colleagues to weigh our arguments wisely.

Sincerely, Carol

--

Carol Fanconi  
21423 Uppermont Lane, Laytonsville MD 20882  
301/977-4944

RECEIVED  
MONTGOMERY COUNTY  
COUNCIL  
2005 JUN -3 PM 1:47

56

6/3/2005

Tom Perez, President, and Montgomery County Council Members  
Montgomery County Council  
100 Maryland Avenue, Rockville, MD 20850  
[countycouncil@montgomerycountymd.gov](mailto:countycouncil@montgomerycountymd.gov)

Carol Fanconi  
21423 Uppermont Lane  
Laytonsville, MD 20882  
[cfanconi@comcast.net](mailto:cfanconi@comcast.net)  
June 2, 2005

**RE: OPPOSE - Private Institutional Facilities in the Agricultural Preserve**

Dear President Perez:

Please distribute a copy of this letter to all council members.

I attended the hearing before the County Council's PIF Working Group on April 13, because of the plan of a mega-church for using the PIF exception [that allows building of churches on land otherwise reserved for agricultural use] in the Laytonsville area. I remember well the planning that went into making sure that Montgomery County was making good planning decisions regarding growth and the commitment of elected officials in the 70's and 80's to protecting agricultural land.

Laytonsville area residents, as well as those in Damascus, Goshen, and Paint Branch testified at the hearing about their belief that elected officials who set up the Ag Preserve, including the exception for churches, did not envision the mega-churches of today and would not have supported the large impervious areas of their buildings and parking lots, nor the strain on transportation and the environment caused by the mega-churches now building in the Agricultural Preserve using this loophole.

**As I testified on April 13 to the PIF Working Group, I strongly the following:**

1. **Comply with Master Plan, Comprehensive Ten Year Water and Sewage Systems Plan and the permitting processes involved in Park and planning processes.** Residents in rural zones rely on the master plan and the rural designation to predict the growth potential in these areas. It appears that there is an unlimited loophole allowing for circumventing the usual processes meant to control growth by allowing PIFs in rural zones. The resulting policy on PIF uses in rural zones should result in assurance of the integrity of the agricultural zones and protection of the community from the influx of traffic and environmental degradation that are likely to occur if large institutions are allowed to build in these zones. No institution should be exempt from these processes and the special exception process.

2. **Protect the county's valuable agricultural preserve:** I strongly support maintaining land in the agricultural preserve for agricultural uses. I moved to this largely agricultural community 35 years ago and became involved in the farming community; support its activities and the life and culture of the community. Once build on the land will never return to farming. I appreciate the foresight of the past county officials in providing for this treasure and I believe allowing large Mega complexes to pave over large sections of farm land should not be allowable. A clear limitation on size, heights, impervious zones that exceed limits usually allowed within the rural and rural estates zones will assure that agricultural lands and rural areas are maintained, while continuing to allow for dense growth in more appropriate zones. Exceptions to the planning and zoning for these rural areas are not compatible with agricultural preservation no matter what benefit the church may bring to the county.
3. **Support elimination of current policy of county council** of extension of public water and sewer served to non-profit institutions in areas not otherwise eligible for public services.
4. **Support requirements in the PIF policy to limit any density in the Ag. Preserve** to no more than one unit per 25 acres. A church or other place of worship should be required to use TDRs in the same way that would be required of a builder erecting houses in the RDT zone. The original intent of the Agricultural Zones Ordinance, Division 59-C-9, promoted clustering houses on parcels smaller than 25 acres per house with the bulk of the ground dedicated to working agriculture in perpetuity.

A limit of 10 percent of the total property could be imposed for all of the structures, parking lot, septic field, and well system that the church uses. Then the church or other place of worship could be required to dedicate the remaining 90 percent to working agricultural use in perpetuity.

If a church is permitted the privilege of building in the RDT zone, where agriculture has always been listed as the preferred use, then it should also bear the responsibility of ensuring that working agriculture remains on the ground. *This would certainly be required of any other owner subdividing the ground.*

Please put a reasonable cap on the size of these facilities so that they do indeed "avoid negative environmental and other impacts in the rural zone" and "support working agriculture and rural character" of our Laytonsville area.

5. **Consider adding transportation impacts** as well as environmental impact to your study. I live on Brink Road about a mile from the intersection of Brink with Rt. 108. The proposed PIF on the corner of Griffith and Rt. 108, if allowed to be built, will have a tremendous impact on the commuter and local traffic on Brink road.

I would object to any facility of the size proposed for this site. I live on Brink road. All the traffic from Gaithersburg will most likely use Brink Road as the main access to Rt. 108 to get to the site on Rt. 108 and Griffith Road. So I can anticipate

that 800 + cars will come down this narrow 2 lane road and make a left turn at the light at Rt 108. There is no left turn lane (or shoulder) and currently during most of the day if a car wants to turn left at this light only one car gets through on each light because of heavy traffic on Rt. 108 bringing cars from Damascus and Carroll county.

The roads in the upcounty are the same 2 lane roads that have served this mainly agricultural area for the last 80 years. The roads have not been widened and new roads built despite the growth in housing. However, a large institution requiring that large numbers of cars make that left hand turn not only on weekends but also on many days of the week will completely gridlock this part of the county. I am sure the T and E committee would want to consider all the impacts, environmental AND transportation when reviewing the PIF policy.

Without knowing the pros and cons of the various options proposed by the PIF Working Group, it is difficult to recommend any single option. However, as a taxpayer and a Montgomery County resident who have been active in civic affairs of the county for more than 30 years, I am alarmed to find that churches apparently have the "right" to build certain institutions in the RTD, rural and Rural Estate Zones without a special exception or apparently the normal public notice and planning processes. I was also alarmed to find out in April, that the Derwood Bible Church was planning a huge facility in my neighborhood with significant traffic impact and had scheduled presentations of what appear to be complete plans without any public notice, public hearings or any other process. The decision of this committee should not allow a "place of worship" to have a right to forego the planning process, zoning, special exception process that allow for appropriate review and public notice.

I understand the goals of the working group are to support working agriculture and rural character of the RDT, and avoid negative environmental impacts of PIF uses in rural zones. I strongly support maintaining the intent of promoting agriculture as the primary land use in this zone.

Thank you in advance for your thoughtful consideration of this important matter.

Sincerely,

Carol Fanconi  
21423 Uppermont Lane  
Laytonsville, Maryland 20882  
Phone: 301/977-4944  
Email: [cfanconi@comcast.net](mailto:cfanconi@comcast.net)

# TOWN OF LAYTONSVILLE

INCORPORATED 1892

*Montgomery County, Maryland*

CHARLES W. OLAND  
*Mayor*

CATHRYN D. BUIT  
*Clerk*

CHRISTINE WILKINSON  
*Treasurer*

June 8, 2005

The Honorable Thomas E. Perez, President  
Montgomery County Council  
100 Maryland Avenue, 6<sup>th</sup> Floor  
Rockville, MD 20850

Re: Moratorium

Dear Mr. Perez:

During its regular meeting on June 7, 2005, the Laytonsville Town Council unanimously agreed to ask that the Montgomery County Council enact a nine month moratorium on new private institutional facilities in the Rural Density Transfer Zone. This moratorium would exclude legitimate agricultural purposes.

We are requesting this moratorium in order to give the Council time to study the negative impact of large, so-called "mega churches" and similar institutions on the agricultural district.

Infrastructure in the agricultural district is insufficient to support the activities of such large facilities. In the case of the facility planned at Route 108 and Griffith Road, just north of the Town of Laytonsville, it would severely and negatively impact transportation on the rural Griffith Road and the already-over-capacity vehicular traffic on Route 108 and seriously impact the Historic District in the Town of which Route 108 transverses. Further consideration would be the impact on the environment of an oversize septic field at the headwaters of the Hawlings River and the impact of wells and septic fields for a 1,500 seat structure placing existing community wells at risk.

Large churches such as those in existence today were not in existence in our area when the Zoning Code was adopted, allowing church and church activities as a permitted use. The Council, at that time, had no way of knowing the impact of these large institutions on the rural community in the agricultural zone.

Post Office Box 5158 • Laytonsville, Maryland 20882 • Office 301-869-0042 • Fax 301-869-7222  
Town Hall • 21607 Laytonsville Road • Laytonsville, Maryland

The Honorable Thomas E. Perez  
Montgomery County Council  
June 8, 2005  
Page Two

During its review, the County Council should consider the impact of facilities such as the planned facility on the intent of agricultural use. The establishment of regulations to limit size and scope of these facilities should be considered; including, but not limited to the ratio of buildings and related amenities to agricultural uses. This would help preserve the intended use of the zone, which is agriculture.

Very truly yours,

  
Charles W. Oland  
Mayor

CWO/cdb

Cc: Michael J. Knapp  
Montgomery County Council

(61)



Andrew Johnson  
22348 Rolling Hill Lane  
Laytonsville, Md  
20882  
May 30, 2005

Keith Levchenko, Legislative Analyst  
PIF Working Group, Montgomery County Council  
100 Maryland Avenue, 5<sup>th</sup> Floor  
Rockville, Maryland 20850

Dear Mr. Levchenko,

I would like to request my written comments be added to the public record of the PIF Working Group. Laytonsville area residents are extremely concerned about the negative impact of Private Institutional Facilities (PIFs) in the Rural Density Transfer (RDT) zone. One such PIF is being planned for property in the Agriculture Reserve, less than one mile north of the Town of Laytonsville. An informational meeting to discuss this plan was attended by approximately 300 concerned citizens. I understand the Working Group will submit a report to the Transportation and Environment Committee of the County Council. This report will include options and recommendations for possible zoning changes in the RDT as a way to address environmental impacts of PIFs. I understand the goals of the working group are to support working agriculture and rural character of the RDT, and avoid negative environmental impacts of PIF uses in rural zones. I offer the following suggestions to maintain the intent of promoting agriculture as the primary land use in this zone.

**Summarized, the three suggestions are:**

- 1. A church should be required to use TDRs as are other entities.**
- 2. There should be a size limit on churches in the RDT zone so that they may be appropriate to the infrastructure and preserve the intent of the RDT zone.**
- 3. There should be a moratorium on PIFs in the RDT zone for an examination of issues threatening to destroy the intent of the Agricultural Zone.**

**1. A church should be required to use TDRs.** Under the current rules, a church may build any size facility on a parcel *plus* use the TDRs with the property to build one house per 25 acres. However, a church or other place of worship should be required to use TDRs in the same way that would be required of a builder erecting houses in the RDT zone. The original intent of the Agricultural Zones Ordinance, Division 59-C-9, promoted clustering houses on parcels smaller than 25 acres per house with the bulk of the ground dedicated to working agriculture in perpetuity. Why not devise a formula that requires one TDR for some defined amount of building space for a church or other place of worship? A limit of 10 percent of the total property could be imposed for all of the structures, parking lot, septic field, and well system that the church uses. Then the church or other place of worship could be required to dedicate the remaining 90 percent to working agricultural use in perpetuity. If a church is permitted the privilege of building in the RDT zone, where agriculture has always been listed as the preferred use, then it should also bear the responsibility of ensuring that working agriculture remains on the ground. This would certainly be required of any other owner subdividing the ground.

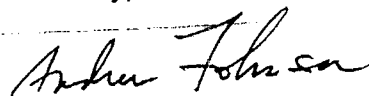
**2. There should be a size limit on churches in the RDT zone.** In the Laytonsville area, the churches do not exceed 300 seats in their places of worship. For new places of worship to be compatible with the nature of the zone, they need to be of similar scale; that is, limited to a maximum of 300 seats. Returning to Zoning Ordinance 59-C-9.23, Intent of the Rural Density Transfer Zone, "The intent of this zone is to promote agriculture as the primary land use in sections of the County designated for agricultural preservation in the General Plan and the Functional Master Plan for Preservation of Agriculture and Rural Open Space.... Agriculture is the preferred use in the Rural Density Transfer zone." Your working group is charged with avoiding negative environmental and other impacts. If churches larger than 300 seats are allowed to move into the RDT zone, we and the county will suffer a host of negative impacts and the agricultural ground will be lost permanently. In Laytonsville, we are threatened with the possibility of:

- a 1500 seat place of worship,
- large impervious areas of parking lots and buildings,
- huge septic fields,
- multiple wells and water holding tanks for fire safety in the building(s),
- transportation issues, i.e., traffic (translate 1500 seats to 750 cars on our rural roads),
- environmental impacts,
- multiple uses that may/will come later that are listed as special exemptions in the RDT zone, but once the worship building is there may well be allowed.

In the end, where is the stewardship of the agricultural ground? Please put a reasonable cap on the size of these facilities so that they do indeed "avoid negative environmental and other impacts in the rural zone" and "support working agriculture and rural character" of our Laytonsville area.

**3. There should be a moratorium on PIFs in the RDT zone for an examination of issues threatening to destroy the intent of the Agricultural Zone.** Finally, give serious thought to proposing that the Montgomery County Council and the Montgomery County Planning Board agree to a nine (9) month moratorium on the approval of any PIF building plans in the RDT zones, but exempt agricultural uses from the moratorium, and use that time to take a comprehensive examination of the multiple issues that are threatening to destroy the original intent of the Agricultural Zones. In the spirit of the 25<sup>th</sup> Anniversary of the Agricultural Reserve that would be the best way to ensure that Montgomery County continues to demonstrate it's commitment to an agricultural plan that has gained the county national recognition. It will be a sad 25<sup>th</sup> anniversary if Montgomery County does not continue to take bold moves to preserve its agricultural treasure by taking the time needed to fine tune this 25 year old plan. Please take the steps needed to preserve our nationally recognized Agricultural Zones.

Sincerely,



Gregory Stone  
22304 Fitzgerald Dr.  
Laytonsville, MD. 20882  
May 30, 2005

Keith Levchenko, Legislative Analyst  
and members of the PIF Working Group  
Montgomery County Council  
100 Md. Ave, 5<sup>th</sup> Floor  
Rockville Md. 20850

Dear Mr. Levchenko and Members,

Please add these written comments to the public record.

Because of the following issues, I feel that the County Council owes the citizens of Montgomery County further study on the impact and size of PIFs (Private Institutional Facilities) in our Agricultural Reserve Areas. A **nine month moratorium on building PIFs in Agricultural Reserve** areas would allow appropriate study and responsible decision making.

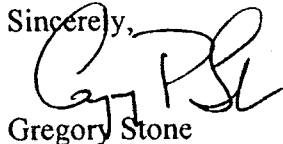
Issues to be studied more thoroughly include:

- Size and scope of PIFs in Agricultural Reserve Areas
- Environmental Impact of extended impervious surfaces and large septic fields in agricultural Reserve Areas
- Impact on wells of the surrounding communities
- Significant loss of farmable acreage in Agricultural Reserve Areas
- Heavy traffic in designated 2 lane rural roads and country towns
- The role of the County Council in preserving Montgomery County's model Agricultural Reserve program

Please advise our elected Council members to act responsibly in studying these issues and making informed decisions for the now and future citizens of our county.

**Once our agricultural land is lost to development, it cannot be undeveloped.**

Sincerely,



Gregory Stone

cc: Mike Knapp, Tom Perez, George Leventhol, Nancy Floreen, Steve Silverman, Mike Subin, Marilyn Praisner, Phil Andrews, Derek Berlage, Doug Duncan

5613 Riggs Road  
Laytonsville, Maryland 20882

May 25, 2005

Keith Levchenko, Legislative Analyst  
PIF Working Group  
Montgomery County Council  
100 Maryland Avenue 5<sup>th</sup> Floor  
Rockville, Maryland 20850

Dear Keith Levchenko,

I understand that your "working group" is developing proposals regarding Private Institutional Facilities (PIF) in the rural zones that surround my residence. I want to add some suggestions that I hope your group will incorporate into a final report to the County Council.

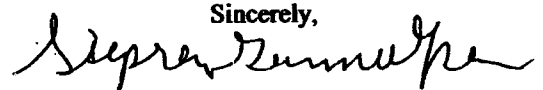
As I see it, one of the biggest issues facing the rural zones that are buffers for the agriculture reserve are the encroachment of non – agricultural projects such as "houses of worship" or "churches". I also understand that the county zoning regulations don't contain any definitions of "houses of worship" or "churches". Every other zone in the county has extensive lists of permitted uses that include detailed definitions of the permitted uses in these zones. How can you assess the impact of a permitted use in a particular zone on the existing neighborhoods if there is no definition of what constitutes a permitted use?

I think your group should develop a definition of "house of worship" or "church" that would be permitted in the agricultural reserve and other rural zones. This could include such items as:

- the number of seats in a building where religious services are to be held,
- how many square feet and the height of a building,
- the number of buildings allowed per lot,
- setbacks from roads and adjoining property lines,
- landscape plans to shield the project from adjacent properties,
- whether or not the permitted use be required to have wells, septic systems, or use public water and sewer,
- the number of cars allowed,
- the size and composition of the parking lot,
- the type, intensity, and positioning of outside lighting,
- hours of operation,
- improvements to local roads as a result of increased traffic generated by the permitted use,
- Sediment control plan to protect sensitive environmental areas,

Allowing unrestricted PIF's to gobble up the land in the agricultural reserve will have profound impacts on the entire county. I believe that your group should consider recommending to the county council that it place at least a nine-month moratorium on PIF's in the agricultural reserve and other rural zones. According to the local newspapers, there are already two "megachurch" projects proposed for Laytonsville and Germantown. A moratorium on these proposed projects will give county officials the time it will take to carefully and comprehensively develop ways to limit the impacts of PIF's on the rural zones and the agricultural reserve.

Sincerely,



Stephen Gunnulfsen

4/20/05

RECEIVED  
MONTGOMERY COUNTY  
COUNCIL

2005 JUN 13 AM 11: 09

Connie and Ernie Graf  
22508 Griffith Drive  
Laytonsville, Md. 20882  
cgggraf@aol.com 301 253-5180  
June 6, 2005

1/2/05  
NAN  
CE  
KL

Marilyn Praisner  
Montgomery County Council  
100 Maryland Ave  
Rockville, MD 20850

015730



Dear Ms. Praisner,

I would like to request that our written comments be added to the public record. The use of Private Institutional Facilities (PIFs) is currently of major concern to the Laytonsville community, particularly the PIF which is being planned for property in the Agriculture Reserve less than one mile north of the Town of Laytonsville. We understand the Working Group will submit a report to the Transportation and Environment Committee of the County Council, including options and recommendations for possible zoning changes in the Rural Density Transfer (RDT) zone as a way to address environmental impacts of PIFs. We understand the goals of the working group to support working agriculture and the rural character of the RDT, and avoid negative environmental impacts of PIF uses in rural zones. It is our hope that your recommendations to the Transportation and Environment Committee strongly emphasize the following:

- Continue to promote agriculture as a primary land use
- Propose a 9 month moratorium on approval of any PIF plan
- Recommend reasonable caps on the scope and scale of PIFs, to maintain the rural character of the community
- Negative impact of traffic on historic 108 and Griffith Road
- Negative impact on the Hawlings River Watershed

We are very concerned about the potential for traffic conditions beyond the capacity of Griffith Road, not only at the proposed entrance to the facility near the Rt. 108 intersection, but along the entire length of Griffith Road as increased traffic would be coming from Damascus Road. Most of Griffith Road is less than two lanes wide, and the eastern end is especially winding with minimal sight distance. When the bridge on Sundown Road was under construction several years ago, Griffith Road became an alternate route, and sadly the scene of a fatal car accident at one of the severe curves.

We hope that the original intent of the Agricultural Reserve will be preserved.

Sincerely,  
Connie and Ernie Graf

Connie Graf  
Ernie Graf

66

**Levchenko, Keith**

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**From:** anneambler@comcast.net  
**Sent:** Thursday, May 12, 2005 2:20 PM  
**To:** Levchenko, Keith  
**Subject:** Comments for Work Group on PIFs, Impervious Surface, and Sewerage

Dear Mr. Levchenko:

Please include the following comments from the Sierra Club in the public record and circulate them to other members of the Working Group for its meeting tomorrow. Paper copy will follow in the regular mail. Thank you very much.

Anne Ambler  
 Chair, Sierra Club, Montgomery County Group  
 301-946-5599

++++++

*"We abuse land because we regard it as a commodity belonging to us. When we see land as a community to which we belong, we may begin to use it with love and respect." - Aldo Leopold, 1948*

On behalf of the nearly 6500 Sierra Club members in Montgomery County, who by joining the Sierra Club have agreed "to practice and promote the responsible use of the Earth's ecosystems and resources," I very strongly urge that we do our utmost to preserve the farmland, forests, and waterways that comprise Montgomery County's Agricultural Reserve.

The Ag Reserve was established at a time of rapid growth in Montgomery County. Visionary planners saw that without radical measures, the entire county would soon be subdivision sprawl. They established the Ag Reserve for the dual purpose of retaining agriculture and preserving the land, water, and air critically needed to sustain a growing population elsewhere in the county.

Will we embrace this legacy, or will we allow it to be nibbled away? The reasons for preserving it are yet **more** valid now than in 1980 as we add food security to the list. Given increasing transportation costs and possible disruption of food importation, **preserving the capacity to grow food locally is critical.**

We commend the Planning Board and the Council for realizing that the restrictions placed 25 years ago are not sufficient to resist the multi-faceted assaults these lands are now experiencing as the county approaches buildout. They realized that additional rules are necessary to preserve the public benefit in view of the assaults by developers who find it easier and more lucrative to develop greenfields than to redevelop downcounty, and assaults by institutions seeking to build complexes so large that they have trouble finding enough open land.

We firmly believe that the public good, the one our government should pursue, lies with protecting the air, water, and food supply of its citizens. We therefore urge:

**1) Adoption of an impervious cover cap at 8% in the RDT zone;**

(67)

5/13/05

2) Special Protection Area overlays with appropriate caps lower than 8% for particularly sensitive areas;

3) No further water and sewer extensions into the Ag Reserve.

**1) Why an imperviousness cap?** A credible body of research shows a cause and effect relationship between impervious surface and degradation of water resources. Wells go dry when water can't percolate through the soil. Stream banks erode when water gushes onto them from storm sewers or cleared land rather than entering the streams via spring-fed tributaries. Murky water can't support the macro invertebrates fish need to eat. Pebbly streambeds become covered with silt and lose their capacity to shelter fish eggs. Water coming off hot pavement into streams makes them too warm for fish species that previously thrived.

We see the effects in the downcounty every time it rains, e.g., flood-level streams of mud coursing down Muddy Branch, Watts Branch, the Northwest Branch, and Rock Creek. The community bears heavy costs to filter muddy river water enough to make it potable. Cost estimates recently received at my request from the River Road WSSC plant put the figure at \$600,000 annually now. That figure includes \$120K for dewatering polymer, \$240K for hauling and disposing of solids, \$70K for materials, \$60K for electricity, and \$110K for staff time just for this operation. These amounts do not include any portion of the bond interest or principal for the \$26+ million dewatering facility that recently opened at that plant. Further, what is the status of WSSC's request to take its water from the middle of the river as Fairfax does now to reduce somewhat the sediment level? Such a project will not come cheap.

Clearly what happens to land in our county is not an exclusively private matter, from drying up the neighbor's well to imposing additional expense on everyone. Seneca Creek and Watts Branch are upstream from the WSSC intake. Northwest Branch and Rock Creek are below. All have an effect on our efforts to restore the Potomac River and Chesapeake Bay. *If our Chesapeake Bay Agreement is to be anything more than a worthless scrap of paper, the time is now to implement procedures and regulations that will protect the tributaries that feed it.*

Once we recognize that imperviousness must be limited, the question is how? A cap applicable to all is certainly the equitable way.

**Why 8%? Why not 15%?**

The threshold for adverse stream impacts is 8 to 10% imperviousness. The Chesapeake Bay Foundation, in *Land and the Chesapeake Bay* (CBF, June 2000) cautions: "As a stream's watershed approaches an imperviousness of 10%, adverse in-stream impacts begin to show. At 15% imperviousness, the stream is beginning to be highly stressed."

Impacts from "even a mere 10% impervious cover of a watershed," according to Tom Schueler, Director of the Center for Watershed Protection (radio interview), include flooding, stream straightening, bed erosion, loss of trees along banks, doubling of stream bed size with resulting fish loss during dry periods, and increased pollution and stream temperature. (See also the presentation on CD the Sierra Club supplied to Mr. Levchenko. It is available to others for the asking.)

MNCPPC staff also recognize "in any subwatershed, water quality is best assured by having total impervious surface 8% or lower" (Staff report, April 9, 2004, p. 9).

2) Special protection areas are needed at headwaters and other sensitive areas to protect them and

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counter the extensive imperviousness of adjacent built areas such as Germantown. Currently the RDT zone's impervious cover averages less than 5%, yet Wildcat Branch of Seneca Creek, located in the RDT near Germantown (cited in the staff report) already is being degraded.

**3) As to sewer and water extensions**, applicants will always ask you to bend the rules just for them. Perhaps they believe their facility will do minimal damage. But obviously, each sewer extension leads to another request--and another. The exclusion of the RDT zone from the sewer envelope was part of the plan to keep large farmable areas, and you certainly heard from farmers how large institutions make very poor neighbors to farms. We urge you to uphold the current sewerage plan. This too is fair, since the limits of the envelope are known.

### **Return on public investment and fairness to the public**

I recommend for your consideration an October 2004 report published by the Maryland Department of Planning, *Maximizing Return on Public Investment in Maryland's Rural Land Preservation Programs*. The study contends that while "millions of public dollars are spent to preserve rural land, land use management practices do not adequately protect the land in many areas from subdivision and development" (p. ii).

"The combination of policies and market behaviors is transforming Maryland's rural landscape into a form that accommodates relatively few people at the expense of the land and the resources, despite strong public sentiments supporting rural land and resource conservation and public expenditures of funds for preservation. The resulting landscape will not, in the long-term, support conservation of many of Maryland's diverse rural resources and forms of agriculture, contrary to both State and local conservation goals, unless public policies and practices become more supportive at both levels of government" (p. iii).

The report goes on to find that Montgomery County's program has some chance for success because of the "strength of supporting programs" (p. 35), referring to TDRs and, I believe, the exclusion of public sewer and water. Do we want to make a good return on our public investment in easements? Do we want an Agricultural Reserve at all? Now is the time to stand up to development interests of ALL kinds and just say "no."

In addition to the equity involved in giving the public a good return on its investment in easements, the public in Montgomery County deserves consideration in another way: in TDR receiving areas county citizens have accepted more density than they would like because they understood that it was part of a bargain to preserve land elsewhere. Allowing this land, preserved at personal cost to them, to now be developed is nothing short of a betrayal of the public trust.

### **Food for people vs land speculation**

In response to my oft-stated argument that growing food for people in the Ag Reserve should be officially encouraged and assisted by our Office of Economic Development, a county official told me at the COG Working Lands Symposium that this is no longer economically viable in Montgomery County. I had suggested that given the surge in organic farming in southern Maryland and Pennsylvania, perhaps organic or at least sustainable farming, whose products command higher prices and can be farmed in smaller quantities, would be profitable. He replied that due to the high cost of land (subsequently clarified to mean land retaining its TDRs), such farmers cannot afford to buy land here. I submit that the way to preserve a reasonable land cost is to strictly maintain the integrity of the Ag Reserve. **A cap on imperviousness, SPAs as appropriate, and absolutely no sewer and water invasions** should serve to

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hold land costs in check, making both **farming** and the sale of **conservation easements** more attractive. Prices are soaring because speculators believe that either the county will abandon the master plan or developers will find a way around it, and the Ag Reserve will soon be open for subdivisions.

## Conclusion

Montgomery County, as a maturing county, has exciting new opportunities if it plays its cards right. The county's own Planning Board, in "Montgomery in the 21st Century: a Framework for Planning in a Maturing County" (attachment to the MC-MNCPPC April Biannual Report), acknowledges that "the outward expansion of infrastructure is no longer a priority. ... Instead, Montgomery County is focused on reinvestment and redevelopment of its existing residential and business communities" (p. 1). Meanwhile, "Efforts to strengthen the agricultural and rural open space program will continue to be an important focus of the planning program" (p. 13).

Why? Because 25 years later, the Agricultural Reserve is still a wonderful idea. It is indeed gratifying to find our arguments echoed in the report of our Planning Board:

*As Montgomery County matures and the region grows, the Agricultural Reserve will become increasingly important to the County's overall quality of life by: a) providing agricultural products and food supply close to metropolitan markets, b) protecting the environment--serving as a "clean air shed" to help cleanse the atmosphere, as well as a mechanism to help protect the quality and quantity of water resources because of the minimum amount of paved area, c) preserving our agrarian heritage and agricultural landscape which is as instructive as a museum, and d) providing a viable land-use alternative to add to the diversity of life styles and land-use options available to the residents of the County. (p. 14)*

Your advice will be critical in avoiding failure of the farsighted vision that created Montgomery County's Agricultural Reserve.

Thank you for the opportunity to provide input for your deliberations.

Anne Ambler

Chair, Sierra Club, Montgomery County Group

P.S. A paper copy will follow with a graphic taken from the cited Schueler presentation illustrating the effects of various degrees of watershed imperviousness on stream quality.

6001 Griffith Road  
Laytonsville, Maryland 20882  
[ortisevans@aol.com](mailto:ortisevans@aol.com)  
301-253-9449

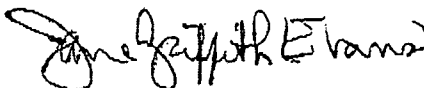
May 12, 2005

Keith Levchenko  
Montgomery County Council Staff  
Fax 240-777-7888

Dear Mr. Levchenko,

I'm faxing you a copy of the Gaithersburg Gazette article from Wednesday May 11, 2005 describing some of the negative reaction of Laytonsville citizens towards this plan and the Derwood Bible Church's plans for 225 acres of land in the RDT zone. I'm also faxing a copy of a 3-fold handout the church provided at a meeting at Laytonsville Elementary School on May 3, 2005. At this meeting, over 300 hundred Laytonsville area residents attended and voiced strong concerns about what this will do to the Laytonsville community. I'm sending this as additional information on what is happening in the RDT zone and hope that you will consider it in your discussions on PIF's.

Sincerely,



Jane Griffith Evans

## Detailed Description of Proposed Future Ministries:

Please keep in mind that while this list represents our current plans for this property over the next ten to fifteen years, it could change for a variety of reasons (funding, zoning, etc.). As always, please feel free to contact us at any time for a current status of our development plans.

**The Fold Teen Home Ministry** – today, our church supports an exciting ministry in Northern Vermont that provides a Christ-centered counseling program designed to facilitate change and growth in the lives of young people who genuinely want to establish a new and closer bond with their parents. Every young person who enrolls at The Fold does so on a voluntary basis, and along with the loving support of their family, is able to receive biblically-based discipling, educational instruction, mentoring, and practical training in how to make wiser choices in and with their lives. It has long been our desire to bring this type of ministry here to Montgomery County. For more information, please check out the Fold Family Ministries at [www.thefoldinc.org](http://www.thefoldinc.org).

**Horse Stables** – in keeping with the character of the land, and to provide a hands-on work experience for the young people staying at The Fold, it is our desire to build a stables and board horses on the property. We then would be able to offer riding, camps and instruction to the greater Laytonsville community.

**Cemetery (the Nellie Griffith Memorial Garden)** – it has long been a passion of the original owner of this property (Nellie Griffith), and the indirect benefactor of the land (Dick White), to see a cemetery

built on the property that would be open to the greater Laytonsville community. We are working diligently with the county to effort this as soon as it is practical.

**High School / Bible College / Seminary Building** – today, providing a high quality educational experience for our young people is a priority in our congregation. To that end, we desire to one day see a facility dedicated to providing the very best academic instruction to young people, while also being able to be used to offer sound, biblical training to adults in our community.

**Freedom House Ministry** – our church has long been a supporter of prison ministries, specifically to those that provide Biblical-based counseling, disciplining, and mentoring to help men be reintegrated back into society. It is our desire to one day open a facility that would provide this type of spiritual and emotional training to men who have truly made a decision to follow Christ, who have actively demonstrated that their lives have been turned around, and are willing to work diligently to both follow Christ and serve Him in some type of ministry. This program would not be open to high-risk men, but would be available to those men who have proven themselves already in work release or ministry-related programs with which we are already actively involved.

**Missionary Bungalow** – throughout the history of our church, we have supported dozens of missionaries working in more than 28 countries around the world. When these missionaries come home on furlough or break, we would like to have a place where they and their families could stay free of charge. This would allow their support dollars to be used back on the mission field.

*Again, please feel free to contact us if you have any questions. Thank you!*



# Site Development Plans for Route 108 / Griffith Road Property

16011 Chieftain Avenue  
Derwood, MD 20855  
301-948-5440  
[www.DerwoodBibleChurch.org](http://www.DerwoodBibleChurch.org)

*Distributed May 3, 2005*

# Derwood Bible Church ~ Route 108 / Griffith Road Site

**Pre-Building Site Requirements** (these must be completed before the main worship building can be constructed):

- A. Septic Fields
- B. Wells (exact locations still TBD)
- C. Road Improvements (scope has yet to be determined):
  - C1. Route 108 (State Road)
  - C2. Griffith Road
  - C3. Route 108 / Griffith Road Intersection
- D. Possible Bike Path (exact location still TBD)

**Proposed Building Priority Ranking** (the top priority is to complete the Main Worship Building; everything else will happen if and when leaders are identified, and funds become available -- consequently, the order / timeline for this development could change):

1. Main Worship Building
  - 1a. Parking Lot(s)
  - 1b. Driveways (from both Route 108 and Griffith Road)
  - 1c. All-Weather Outdoor Playground
  - 1d. Outdoor Amphitheater / Worship Area (exact location still TBD)
  - 1e. Storage / Maintenance Shed (exact location still TBD)
2. Baseball / Softball Fields (Robert Suddith Memorial Baseball Park)
  - 2a. Concession Stand
3. Tennis and Basketball Courts -- Multi-Use
4. Soccer / Football Field with Track (Dick White Soccer Complex)
5. The Fold Teen Home Ministry\* -- provides biblically-based discipling, teaching, mentoring, and training for young people
6. Horse Stables\*
7. Cabins -- two cabins large enough for us to host camps / retreats
8. Cemetery\* (Nellie Griffith Memorial Garden)
9. High School / Bible College / Seminary\* -- a multi-use facility dedicated to providing top-notch academic instruction for young people, and sound, biblical training to adults in our community
10. Freedom House Ministry\* -- for discipling and training men who are ready, spiritually and mentally, to be reintegrated into society
11. Missionary Bungalow\* -- for visiting missionaries on furlough

\* See more information on the back

"For every house is built by someone, but God is the builder of everything." (Hebrews 3:4 ~ NIV)

# The Gazette

**GAITHERSBURG**

WEDNESDAY, MAY 11, 2005

25 CENTS

WWW.GAZETTE

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There he is

## Making the gr

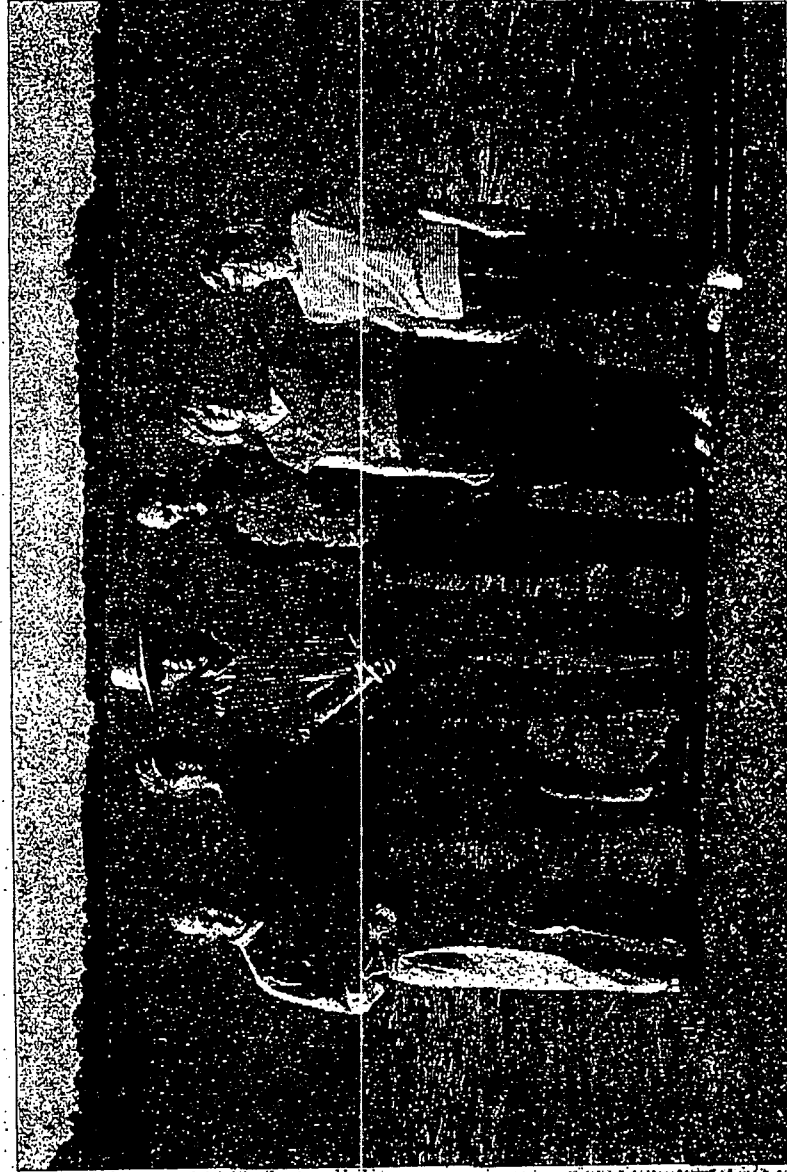
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## School Lake Park

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Susan Whitney-Wikerson/The Gazette  
Laytonsville residents are questioning plans for a 'megachurch' on this rural land at Route 108 and Griffith Road. They include Steve Lamphier, David Parkhurst, Greg Stone, Ben Holmes, Jane Evans and Phyllis Sterling.

## 'Megachurch' plans decried

Well water, traffic  
problems envisioned

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undeveloped — even though, ironi-  
cally, he is a real estate agent. "I'd like  
to see no housing ever built here," he



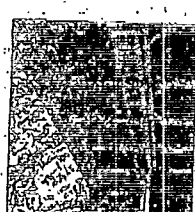
SCHOOL NEWS  
A-1

The Gazette



**Entertainment**  
Farce 'Lend Me a  
Tear' on Ciney  
Theatre stage  
B-1

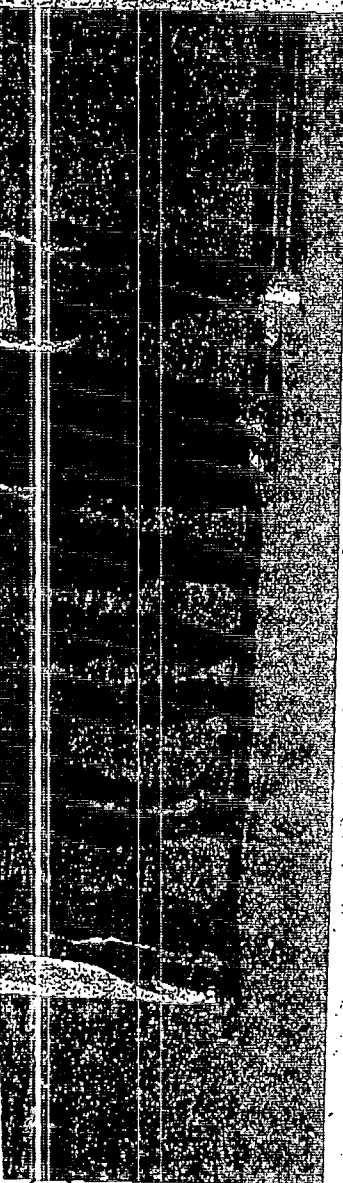
**Youth Press**  
There he is,  
Mr. Damascus  
C-3



**Homes** C-1  
Circa-1850 inn has  
just cottage and  
more on five acres

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Susan Whaley-Watson/The Gazette  
Laytonville residents are questioning plans for a 'megachurch' on this rural land at Route 108 and Griffith Road. They include Steve Lamphier, David Parkhurst, Greg Sine, Ben Holmes, Jane Evans and Phyllis Sterling.

# 'Megachurch' plans decried

Well water, traffic  
problems envisioned

By Sara Stefani  
Staff Writer

Ben Holmes moved to Laytonville last August because he wanted to get away from the noise, traffic and congestion of downtown Silver Spring.

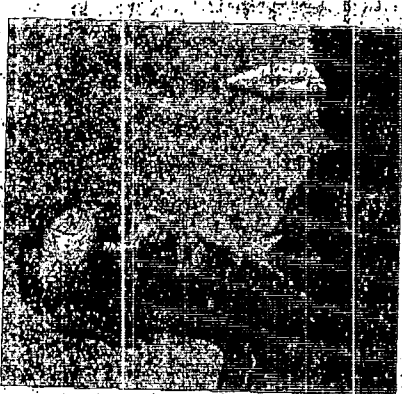
"We were touched by the rural character of this area," he says of the 200-resident town surrounded by farmland. "This is just one of the last untouched areas in the county."

Holmes would like Laytonville to remain that way — rural, quiet and undeveloped — even though, ironically, he is a real estate agent. "I'd like to see no housing ever built here," he says with a laugh.

But a church's plan to develop a 225-acre plot neighboring Holmes' 2.3-acre property threatens to disrupt the agricultural town's "untouched" character, residents say.

In a jam-packed meeting last week at Laytonville Elementary, Derwood Bible Church leaders presented their plan to build a 1,500-seat church on an empty field at the corner of Route 108 and Griffith Road by early 2008.

See Church, page A-15



Rachel Golden/The Gazette  
John Long is pastor at Derwood Bible Church.

# Council bedeviled by dilemmas over spending, taxes

by Douglas Tallman  
and Sean Sedam  
Staff Writers

County Council members remain split on which course to take with County Executive Douglas M. Duncan's recommended budget, debating deep spending cuts to pay for property tax relief.

"Of course, we're wrangling," said Councilman Howard A. Denis (R-Dist. 1) of Chevy Chase. "This is why we wanted to be here."



lively targeted about \$24.6 million to be trimmed from Duncan's \$3.6 billion budget blueprint. But more difficult budgeting decisions — such as how to handle Montgomery County Public Schools' \$1.7 billion

Nearly all of the council's attention has been focused on Duncan's new proposals and more on the "base budget" — programs approved in previous budgets and carried forward.

"One of my principal concerns is we're looking at the frosting and not the cake," said Council President Thomas E. Perez (D-Dist. 5) of Takoma Park. "We're just examining at the details, the increases in the budget."

# Civil rights leader's name is bypassed

by Jaime Ciavarella  
Staff Writer

The school board voted yesterday to name the new Gaithersburg middle school Lakelands Park, appeasing city leaders who helped the school district purchase the land.

"We were really between a rock and a hard place, and we absolutely had to have a school," said Patricia O'Neill, school board president. "We had a great deal of feedback from the community, and I still go back to the city of Gaithersburg's issue."

Gaithersburg sold the land to the county when school leaders said they needed the site.

During the naming process last month, Gaithersburg leaders requested Lakelands Park because the school is next to a city park with the same name, said Mayor Sidney Katz.

The school's naming committee, a group of 16 residents, parents and students, also ranked Lakelands Park as first choice.

"We're very proud and pleased to be their partner," Katz said when asked if he thought the land deal drove the board's pick. "We're pleased, but I'm sure they were also listening to the community."

All board members approved the name except for Steven Abrams, who

See Name, page A-16

Bethesda road project. And another proposal to restructure the budget discussion to control increased spending appears to have little traction.

And a \$6.6 million cut to the school system drew complaints from Board of Education members who believe schools should be shielded from budget cuts. "I do not believe a cut to the school system's budget is appropriate, nor do I believe it keeps the community..."



(3)

## CHURCH

Continued from A-1

A handout the church provided also lists possible additions, including a cemetery, horse stables, sports fields and courts, and a home for troubled teens.

"This is not just a church, it's a complex," said Phyllis Sterling, a resident.

Derwood Bible Church is one of a slowly growing number of churches applying to develop more expansive "megachurches" in the county's agricultural reserve — a 93,000-acre area the county designated as a rural density zone in 1980 — where land is cheaper and easier to come by.

The trend brings to light the lack of restrictions on church development in the agricultural reserve.

Zoning laws in the area, which includes Laytonsville, limit housing projects to one unit per 25 acres, the lowest ratio in the county, and forbid commercial development.

With a congregation of up to 600 people, Derwood Bible is growing out of church on Chieftain Avenue in Derwood, said the Rev. John Long.

Despite residents' concerns about the non-denominational church's impact on the town's rural character, Long said that when the planning and developing begin, staying in stride with the scenery will be one of the church's top priorities.

"Anything we have even thought of building would be less

than 17 percent of the land," said Long, adding that he and other church leaders have already discussed painting the church in earth tones, to match the surrounding fields. "We are very mindful that it's an agricultural area, we are very aware of the scenery."

Still, residents say the size of the church alone will clash with the scenery.

"The size and scope of what they plan on doing does not fit with what else is out here," said Jane Evans, a resident. "... It's not [consistent] with the agricultural area."

In keeping with the town, the church has promised to draw its water from a well and septic system, instead of a more environmentally disruptive sewer system. Residents worry, however, that such an expansive complex could affect their own water supply.

"All of us tap into the same natural resource," Holmes said. "And fit-

teen-hundred people, that's a lot of toilets being flushed."

Laytonsville has an "average" water supply and has had few problems in the past with wells drying up, said Jay Beatty, manager of well and septic section at the county's department of permitting services.

"To my knowledge, we really haven't run out of water because of adjacent property use," Beatty said. "The ground water in Laytonsville is in good supply, it's not like it's scarce or we have a problem with wells running dry."

Whether the church could affect neighbors' water supply depends, however, on the church's proximity to the wells and its activities, he said.

Paul Scholl, a plumber who lives near the land, said Laytonsville's wells are not "very good wells." A good well collects 10 to 30 gallons of water a minute, while Laytonsville's well collect two to seven gallons.

The one or more parking lots included in the church's plans could also cause problems with the church's water supply. Carlton Gilbert, a zoning supervisor at the Maryland-National Capital Park and Planning Commission, said the "impervious structure" of parking lots that accompany megachurches in the agricultural reserve are becoming a concern because they block water flow on the land.

The development would require some roadwork on Griffith Road and Route 108, driveways leading from both roads and, possibly, the construction of a new bike path, according to the church's handout.

Sterling, a former Laytonsville councilwoman, worries that the amount of traffic the 1,500-seat church will draw will create congestion on the town's historic main

street and impede the town's vision of having a walkable community, she said.

The church plans to buy the land on Thursday, Long said.

So far, they have had the land tested to make sure it can sustain the development, and started working with architects to plan the design, said Long. They have not applied for any building permits yet.

Long did not know when if and when they will build the additional ministries described in the handout, but said that the ministries are part of the "the dream in totality."

In the last two-and-a-half years, the park and planning commission has approved sewer service for two church projects in areas zoned for rural density in Germantown and Clarksburg.

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Session 1: June 20-July 1

Session 2: July 5-15

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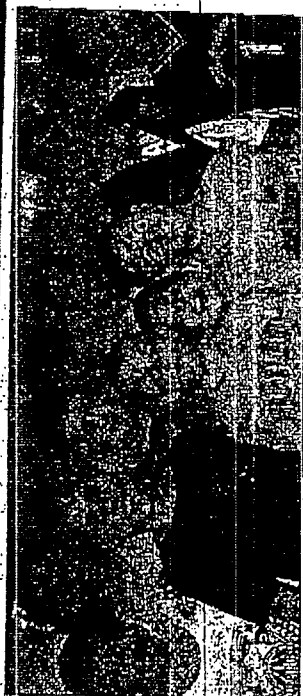
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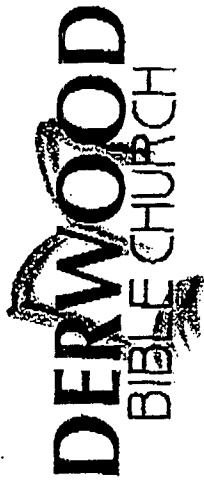
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(76)



# Site Development Plans for Route 108 / Griffith Road Property

16011 Chieftain Avenue  
Derwood, MD 20855  
301-948-5440  
[www.DerwoodBibleChurch.org](http://www.DerwoodBibleChurch.org)

built on the property that would be open to the greater Laytonsville community. We are working diligently with the county to effort this as soon as it is practical.

**High School / Bible College / Seminary Building** – today, providing a high quality educational experience for our young people is a priority in our congregation. To that end, we desire to one day see a facility dedicated to providing the very best academic instruction to young people; while also being able to be used to offer sound, biblical training to adults in our community.

**Freedom House Ministry** – our church has long been a supporter of prison ministries, specifically to those that provide Biblical-based counseling, disciplining, and mentoring to help men be reintegrated back into society. It is our desire to one day open a facility that would provide this type of spiritual and emotional training to men who have truly made a decision to follow Christ, who have actively demonstrated that their lives have been turned around, and are willing to work diligently to both follow Christ and serve Him in some type of ministry. This program would not be open to high-risk men, but would be available to those men who have proven themselves already in work release or ministry-related programs with which we are already actively involved.

**Missionary Bungalow** – throughout the history of our church, we have supported dozens of missionaries working in more than 28 countries around the world. When these missionaries come home on furlough or break, we would like to have a place where they and their families could stay free of charge. This would allow their support dollars to be used back on the mission field.

*Again, please feel free to contact us if you have any questions. Thank you!*

## Detailed Description of Proposed Future Ministries:

Please keep in mind that while this list represents our current plans for this property over the next ten to fifteen years, it could change for a variety of reasons (funding, zoning, etc.). As always, please feel free to contact us at any time for a current status of our development plans.

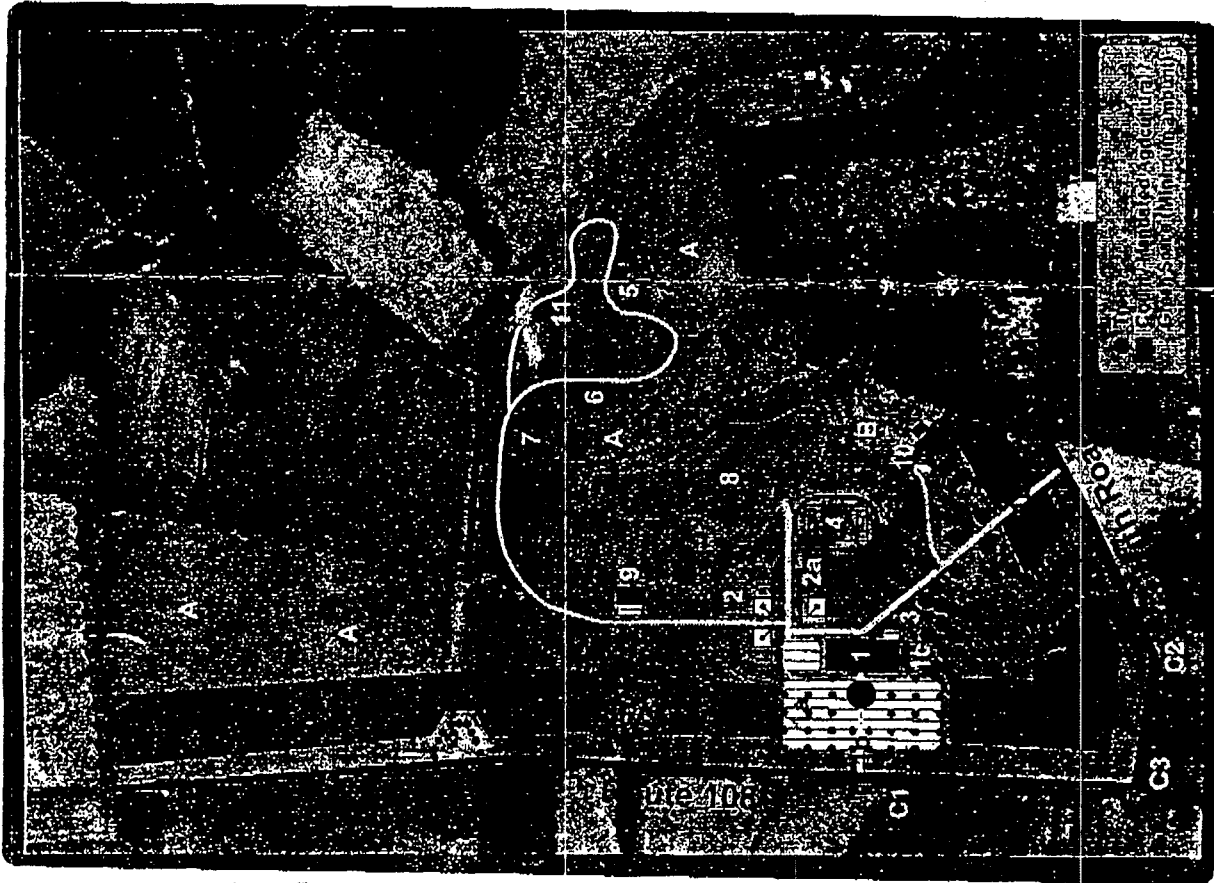
**The Fold Teen Home Ministry** – today, our church supports an exciting ministry in Northern Vermont that provides a Christ-centered counseling program designed to facilitate change and growth in the lives of young people who genuinely want to establish a new and closer bond with their parents. Every young person who enrolls at The Fold does so on a voluntary basis, and along with the loving support of their family, is able to receive biblically-based discipling, educational instruction, mentoring, and practical training in how to make wiser choices in and with their lives. It has long been our desire to bring this type of ministry here to Montgomery County. For more information, please check out the Fold Family Ministries at [www.thefoldinc.org](http://www.thefoldinc.org).

**Horse Stables** – in keeping with the character of the land, and to provide a hands-on work experience for the young people staying at The Fold, it is our desire to build a stables and board horses on the property. We then would be able to offer riding camps and instruction to the greater Laytonsville community.

**Cemetery (the Nellie Griffith Memorial Garden)** – it has long been a passion of the original owner of this property (Nellie Griffith), and the indirect benefactor of the land (Dick White), to see a cemetery



# Derwood Bible Church ~ Route 108 / Griffith Road Site



## Pre-Building Site Requirements (these must be completed before the main worship building can be constructed):

- A. Septic Fields
- B. Wells (exact locations still TBD)
- C. Road Improvements (scope has yet to be determined):
  - C1. Route 108 (State Road)
  - C2. Griffith Road
  - C3. Route 108 / Griffith Road Intersection
- D. Possible Bike Path (exact location still TBD)

## Proposed Building Priority Ranking (the top priority is to complete the Main Worship Building; everything else will happen if and when leaders are identified, and funds become available -- consequently, the order / timeline for this development could change):

1. Main Worship Building
- 1a. Parking Lot(s)
- 1b. Driveways (from both Route 108 and Griffith Road)
- 1c. All-Weather Outdoor Playground
- 1d. Outdoor Amphitheater / Worship Area (exact location still TBD)
- 1e. Storage / Maintenance Shed (exact location still TBD)
2. Baseball / Softball Fields (Robert Suddith Memorial Baseball Park)
- 2a. Concession Stand
3. Tennis and Basketball Courts -- Multi-Use
4. Soccer / Football Field with Track (Dick White Soccer Complex)
5. The Fold Teen Home Ministry\* -- provides biblically-based discipling, teaching, mentoring, and training for young people
6. Horse Stables\*
7. Cabins -- two cabins large enough for us to host camps / retreats
8. Cemetery\* (Nellie Griffith Memorial Garden)
9. High School / Bible College / Seminary\* -- a multi-use facility dedicated to providing top-notch academic instruction for young people, and sound, biblical training to adults in our community
10. Freedom House Ministry\* -- for discipling and training men who are ready, spiritually and mentally, to be reintegrated into society
11. Missionary Bungalow\* -- for visiting missionaries on furlough

\* See more information on the back

"For every house is built by someone, but God is the builder of everything." (Hebrews 3:4 ~ NIV)

To: Keith Levchenko

From: Jeff Patch, Trustee, Church of the Redeemer of Gaithersburg

Date: April 21, 2005

Re: Follow-Up remarks to April 13 Public Forum – PIF Policy

Please accept this memorandum as additional comments from Church of the Redeemer subsequent to the April 13 Public Forum regarding potential changes to the PIF Policy. You may recall that Church of the Redeemer was first on the agenda, and thus we did not have the opportunity respond to some of the comments that followed.

A common theme among many of the individuals and organizations that support a severely more restrictive PIF Policy was that churches and other houses of worship have a scriptural and moral mandate for good environmental stewardship. Church of the Redeemer wholeheartedly agrees, and we take our responsibility to be good stewards seriously. However, we do not agree that a higher degree of imperviousness is tantamount to bad environmental stewardship.

Church of the Redeemer's current property on Woodfield Road has a 54% imperviousness ratio, which was necessary because of our parking needs. In order to compensate for the runoff, we built a storm water management pond of approximately one acre that was approved by the County and by Park & Planning. A little history is also in order. When Church of the Redeemer acquired the Woodfield Road property in 1996, it was environmentally distressed from its historical use. The property was littered with trash and discarded tires and had UST's that needed to be removed. Church of the Redeemer worked with its contractors and with regulatory authorities to clean up the site at considerable expense to the Church. Any reasonable person would say that the environmental quality of the property has improved greatly under our stewardship.

As Church of the Redeemer contemplates its future building plans on the 17-acre parcel it owns at the corner of Woodfield and Warfield Road, it is our intention to explore the feasibility of environmental best practices to reduce environmental impacts, such as permeable parking areas, rain gardens and green roofs. However, we think it would be unwise and unwarranted to add further regulatory burden to churches. Under the existing approval processes, it took Church of the Redeemer over five years from the date of our land purchase until we opened the doors for our first service. Additional restrictions would make future building difficult if not impossible. We do have a scriptural and moral mandate to be good environmental stewards, which we have fulfilled and will continue to fulfill. We also have a scriptural and moral mandate to meet the needs of people in the Montgomery County who will continue to come to Church of the Redeemer for spiritual growth and practical assistance. The existing PIF Policy and regulatory process will allow us to balance both mandates without compromising either.

April 13, 2005

Good evening. My name is Tim Simpson. I am the senior pastor at Greenridge Baptist Church in Clarksburg. Thank you for your attention to these important and difficult matters. My hope is that you will strike a healthy balance between protecting the environment and assisting congregations in their desire to serve the residents of our county. I believe both are valuable and deserve the support of local government.

Greenridge has been a part of the Clarksburg community since 1970. Our active membership is now over 600 people. The members of our church reside in Boyds, Clarksburg, Damascus, Germantown and Gaithersburg. The men and women of our congregation are active in the public schools, local sports associations and community benevolence projects.

As a regular part of our ministry we provide the following services:

- a. A full time day care facility, open five days a week, to serve the commuting parents along the I-270 corridor
- b. Meeting space for Boys Scouts
- c. Meeting space for a professional counseling service
- d. Financial assistance in the form of rent, utilities and groceries for families in need.
- e. Parenting classes
- f. Service projects to the teachers, police officers, and firefighters in the Germantown area.

As local government approves building permits for new homes, shopping centers and schools, the one missing piece is space for churches to expand their facilities. It seems to me, as a thirteen year resident of the county, that if the county is open for newcomers, many of our new neighbors will seek out a house of worship. PLEASE consider this one basic fact in your deliberations.

For example: the master plan for Clarksburg allows for the population to reach over 40,000 people. If only ten percent of that number leaves home on Sundays for a church service, the congregations in my neighborhood need to find room for 4,000 new attendees. The reality is that Cedarbrook Community Church (located at the corner of Piedmont and Stringtown Roads) and Greenridge Baptist Church (located on Route 355 north of Brink Road) are the only churches in all of Clarksburg with average attendance higher than 150 people. The other churches are unable, physically, to welcome thousands of new faces. The "growing" churches need the assistance of local government, with consideration for the environment, to expand their space and program for the new citizens.

PLEASE consider how important the daily work of congregations is for the quality of life in our county. It is churches that help keep marriages and families strong. It is churches that promote sexual purity. It is churches that help reduce domestic violence and addiction to drugs and alcohol. It is churches that provide volunteers for school events. It is churches that bridge the gap between government dollars and families at risk.

Church members do value the water quality and a clean environment. We are willing to comply with all the current regulations concerning impervious area, setbacks, storm water management, etc. We are called by God to be good citizens. We spend our limited resources for the professional assistance of engineers and attorneys to help us be responsible neighbors.

I speak against any change in the "PIF Policy." Please apply your influence wisely and help local congregations be vital partners with the homebuilders, educators and merchants.

Thank you for your work and desire to do what is right and fair.

Sincerely,

Tim Simpson, Senior Pastor  
Greenridge Baptist Church

## Levchenko, Keith

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**From:** Troutner, Dave [Dave.Troutner@nasd.com]  
**Sent:** Tuesday, April 12, 2005 3:58 PM  
**To:** Levchenko, Keith  
**Subject:** PIF Uses Public Forum on Wednesday

Mr. Keith Levchenko  
Legislative Analyst  
100 Maryland Avenue, 5th Floor  
Rockville, MD 20855

Dear Mr. Levchenko and Working Group Members:

I appreciate that the County Council's Transportation and Environment Committee has formed an interagency Working Group to review the Private Institutional Facilities (PIF) issue with regard to its impact on large lot zones and provide recommendations for changes that would balance the needs of PIF applicants with the County's interest in avoiding and/or minimizing environmental impacts of PIF uses in these zones. I especially appreciate that the working Group has been directed to factor public input on the issues. Unfortunately I have other commitments and cannot attend the Public Forum on April 13. So please accept these written comments for consideration.

With respect to zoning options, I believe that public water and sewer should be a special exception and require site plan review to ensure that significant environmental impacts are not permitted. I agree that there should be and Impervious Area Cap as recommended by the Planning Board in its zoning text amendment transmittal to the Council. To be effective, it should be 8% or less of total lot coverage, and include all parking lots and uses regardless of public water or sewer service. There should also be an Environmental Overlay Zone across identified environmentally sensitive areas, especially those with streams.

With respect to Water and Sewer Plan revisions, it is logical to consider eliminating the PIF Policy altogether if they would be required to meet such zoning criteria in order to receive public water and sewer service. Regardless of whether the PIF Policy remains or not, I believe it is imperative that there be pre-application plan approval and site plan review and approval (including public hearings at each step), and that M-NCPPC require the applicants to implement measures to reduce environmental impacts via best practices including state of the art storm water management, rain gardens, green roofs, permeable parking areas, and other "green" building practices.

Private Institutions should be welcome and encouraged in Montgomery County as they serve to enhance many citizens' quality of life. However, as undeveloped land becomes increasingly scarce, the County must address the negative environmental impacts from the proliferation of PIF uses in the valuable agricultural preserve and "open space" rural zones. In addition to preventing stream and water supply contamination, the super-sized PIFs should be sufficiently spaced by miles of open space so as not to cause disruptive traffic patterns and significantly deface the esthetic rural character of the zones, as many more citizens, especially those in the effected communities, cherish and respect the agricultural and rural estate areas for their intrinsic, primary designation (for agriculture and rural estates), along with their present environmental qualities and protection.

Thank you for this opportunity to provide input on this issue.

*David R. Troutner*

Derwood, MD

Montgomery County Resident, 40 Years

Muncaster Area Civic Association, President

Upper Rock Creek Coalition, Director

4/28/05

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-----Original Message-----

**From:** Levchenko, Keith [mailto:Keith.Levchenko@montgomerycountymd.gov]  
**Sent:** Monday, April 11, 2005 10:47 AM  
**To:** Troutner, Dave  
**Subject:** RE: Public Forum on Wednesday

Attached is the information you requested. I've also attached the agenda for April 13 that I sent out to folks last week. The speakers list on the agenda is being updated as we get additional speakers. I've also put your email on my distribution list so you will receive future emails on the issue.

Keith Levchenko, Legislative Analyst  
Montgomery County Council Staff  
240-777-7944  
240-777-7888 (fax)  
[keith.levchenko@montgomerycountymd.gov](mailto:keith.levchenko@montgomerycountymd.gov)

-----Original Message-----

**From:** Troutner, Dave [mailto:Dave.Troutner@nasd.com]  
**Sent:** Monday, April 11, 2005 9:02 AM  
**To:** Levchenko, Keith  
**Subject:** Public Forum on Wednesday

Keith,

I would like to submit comments for the public forum on April 13<sup>th</sup> concerning possible changes to either the zoning policy or the water and sewer policy that would limit the size of institutional facilities in the RDT and rural estate zones. Please email me information about the public forum outlining the background of the working group, the options they are considering, and the structure of the forum. If I am unable to attend, I will submit brief written comment.

Thank you,

Dave Troutner

19101 Artesian Ct., Derwood, MD      [davetroutner@aol.com](mailto:davetroutner@aol.com)

President, Muncaster Area Civic Association      [muncasterareaca@aol.com](mailto:muncasterareaca@aol.com)

Director, Upper Rock Creek Coalition

**Levchenko, Keith**

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**From:** Susan M [sjm51101@comcast.net]  
**Sent:** Monday, April 04, 2005 10:21 PM  
**To:** Levchenko, Keith  
**Cc:** ourggca@hotmail.com  
**Subject:** PIF Working Forum

Mr. Levchenko:

Thank you for providing us this opportunity to express our concerns.

We are members of the Greater Goshen Civic Association and live within the Rural and Agricultural Preserve. Because we will be unable to attend your PIF public meeting, we are sending this email to state, in the clearest possible terms, our opposition to the construction of large Private Institutions within the Preserve.

As part of our home purchase considerations, we took great pains to consider quality of life factors, such as environmental preservation, zoning, commercial and civil air routes, and county development plans. We actively sought a home location that offered old growth woods, low development density, clear streams, low noise, wildlife habitat, and clean air. Our homes location within the Preserve was the major factor in our decision to live within Montgomery County. Moreover, we felt protected because of Montgomery County's reputation for safeguarding the environment and zoning laws.

Now we feel threatened by Montgomery County's failure -- and apparent unwillingness -- to enforce its own zoning and development restrictions within the Rural and Agricultural Preserve.

Construction of large private institutions within the Preserve would constitute a violation of the fundamental low density development restrictions. How can responsible members of County Government fail to recognize the inherent contradiction between restricting residences to one structure per two acres, and authorizing large Public Institutions, whose structures and associated parking, cannot be contained in less than two acres? Are we going to pave the Preserve and put up multiple parking lots?

Several years ago, Montgomery County justified its approval of high density senior housing within the Preserve at Prathertown and Wightman Roads on the basis of the greater needs of the County. What greater need of the County will be satisfied by authorizing construction of multiple large Public Institutions within the limited pristine watershed of the Preserve? The quality of life of all Montgomery County residents is threatened by the prospect of constructing large Public Institutions near the headwaters of the Mustang Branch and Great Seneca Creek. Many County residents, who do not live in the Preserve, escape their high density neighborhoods for the healthful public hiking trails and fishing alongside the pure water streams within the Preserve. Countless County residents enjoy the clean water, fishing, picnic areas and nature trails within Great Seneca Park. These opportunities are threatened by the pollution inherent in the runoff from large areas of impervious surface that perforce will accompany construction of large Public Institutions within the Preserve. By what rationale does the County consider that the desires of a limited number of congregants to build a church, trump the property rights and recreational needs of all County residents?

Even though the County ultimately overrode the expressed desires of County residents, the Prathertown development was subjected to numerous hearings regarding the developer's request for zoning

(84)

variances. As a matter of due process, the question of large Public Institutions with the Preserve deserves to be subjected to widespread public scrutiny as a zoning matter, not merely as a matter of Water and Sewage variances, or similar.

We would also like to point out that the adverse impact of large Public Institutions on the existing road structure has not been adequately investigated. Existing Preserve roadways are already heavily traveled. These roads were not designed to accommodate heavy commuter traffic; yet, they are increasingly being used as alternative highways by commuters from Frederick and Columbia and as far away as Annapolis. Newly authorized high density construction in Clarksburg and Urbana threaten to add more traffic to the mix. Together, this traffic already threatens the "essentially rural character of the area." Construction of the M-82 extension through Preserve areas is still under consideration. On April 21, 2005, a public hearing will be held at Montgomery County offices to consider a proposal to replace the existing, deteriorating Brink Road Bridge No. M-063 over Goshen Branch Tributary and to re-construct approximately 850 feet of approach roadways to tie the new structure into the existing roadway on both sides. Clearly, this is no time to consider construction of large Public Institutions that can each add several hundred vehicles to already over burdened rural roadways.

Thank you for the opportunity to express our concerns.

Anthony E. Mitchell &  
Susan J. Mitchell  
9400 Brink Road  
Gaithersburg, MD. 20882

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# Coalition for Smarter Growth

*Better Communities...Less Traffic*

Keith Levchenko, Legislative Analyst  
100 Maryland Avenue, 5<sup>th</sup> Floor  
Rockville, MD 20850

Dear Mr. Levchenko:

Thank you for the opportunity to comment on the working paper developed to consider the environmental impacts of private institutional facilities (PIFs) in the RDT, Rural, Rural Cluster, and Rural Estate Zones. The Coalition for Smarter Growth has the following comments.

- While the Coalition for Smarter Growth recognizes that the Council can approve the extension of public water and sewer service to PIFs in areas not otherwise eligible for public service, the Coalition does not support such extension. Even with limited access policies, the development community will perceive the extension of water and sewer service as an opportunity to build into areas not suitable for high density development. The provision of public water and sewer is such an amenity, it can only encourage additional development.
- While impervious surface cap requirements should be integrated into the Water and Sewer Plan, Montgomery County should not depend on a document that requires state approval (Maryland Department of the Environment) to regulate local land use.
- The Coalition for Smarter Growth favors performance based zoning options that rely on environmental outcomes (in this case water quality) rather than arbitrary use and size restrictions.
- By combining zoning options 3, 4, and 5, the Coalition for Smarter Growth believes that water quality in Montgomery County will be adequately protected.
- Development in the RDT, Rural, Rural Cluster, and Rural Estate Zones requires an additional level of scrutiny. Site Plan Review is an important tool Montgomery County can use to ensure that development in this sensitive area does not result in significant environmental degradation.
- Impervious Area Caps directly relate to water quality. In fact, the Center for Watershed Protection states that in watersheds with 11-25% impervious cover, streams show clear signs of distress and degradation; in watersheds with impervious cover above 25%, streams can no longer support a diverse community. The Coalition for Smarter Growth urges the PIF Working Group to consider this work by the Center for Watershed Protection as the definitive industry standard.
- Marrying Impervious Surface Caps and the Overlay Zone is entirely appropriate in the RDT, Rural, Rural Cluster, and Rural Estate Zones. There are certain areas that can support higher levels of impervious cover and other areas where any additional impervious cover is environmentally damaging. An overlay zone can respect those differences.

Thank you for the opportunity to comment on your working paper. If you have any questions, please contact me at the number below.

Sincerely,  
Jessica Cogan Millman, Maryland Director  
Coalition for Smarter Growth

4000 Albemarle Street, NW, Suite 310, Washington, DC 20016  
(202) 244-4408 fax: (202) 244-4438  
[www.smartergrowth.net](http://www.smartergrowth.net)

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# Bethel World Outreach Church

"Where the nations gather to worship; where America meets the world"  
Bishop Darlington G. Johnson, D.Min., and Lady Chrys Johnson, M.A., Senior Pastors

April 14, 2005

Mr. Keith Levchenko  
Legislative Analyst  
100 Maryland Avenue, 5<sup>th</sup> Floor  
Rockville, MD 20850

Dear Mr. Levchenko:

As you deliberate about the matter of PIFS, please take seriously the issues below.

Churches are not bricks, buildings, parking lots, and cars. Churches are people who live in Montgomery County—little children between zero and 12, teenagers, single adults, families, and more and more, senior citizens. To say no to a church is to say no to individuals and families, children and senior citizens, tens of thousands of Montgomery County residents. It is to say no to the services these people need and value that the church provides best.

A church is people providing support to each other. It is people supporting other people when they get married, when they give birth, as they raise children, when they face crises, in times of great joy and in times of great sorrow.

To say no to a church is to say no to people who help to create the moral and social environment that allows us to feel safe and offers us the best opportunity to pursue our individual dreams. Among its many contributions, churches help to provide the moral and social structures that minimize crime, keep youth out of gangs, discourage the use of drugs, reduce the incidents of sexually transmitted disease, and mitigate the evils of poverty.

Churches that are growing are doing so because they are meeting these needs best. To have as an unspoken goal to limit the size of churches artificially and the number of churches in certain areas (one that comes across in some of the comments and arguments made in support of impervious caps) works against the interests of thousands of individuals and families whose needs these churches meet. If you pass laws that place a substantial burden upon these churches, making it extremely difficult, and in some cases impossible for them to perform these valuable and much needed services to citizens of Montgomery County, who do you have in mind that will replace the churches and meet these needs?

242-52 Georgia Avenue  
Silver Spring, MD 20910  
Phone: (301) 588-8099  
Fax: (301) 588-4947

Mailing Address:  
P.O. Box 8159  
Silver Spring, MD 20907

Congress, recognizing the important role that religious communities play in society, unanimously passed the Religious Land Use and Institutionalized Persons Act in 2000. Congress determined that local governments were using land use ordinances to discriminate against religious communities and took action to prevent this practice. The law, which groups like the ACLU and the ACLJ (which are on opposite ends of the political spectrum) supported, stipulates:

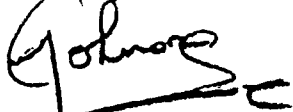
1. That local governments may not use land use ordinances to place substantial burdens upon religious communities that make it unnecessarily difficult for citizens to exercise their right of religious expression guaranteed by the constitution, unless there is a compelling government interest;
2. That when there is a compelling interest, local governments must choose the least restrictive means of satisfying that interest;
3. That it is illegal to discriminate against a particular religious group;
4. That laws cannot be enacted that effectively prevent a particular religious group from being able to practice their religion within a certain municipality or community.

I trust that the committee is fully aware of this law. And that in the past, courts have found that such issues as traffic problems, and the negative feelings residents in a community may have against a church moving into their community, do not constitute a compelling government interest which justifies placing a substantial burden upon a church or group of people who want to exercise their religious rights. The courts have found that religious rights are fundamental and cannot be subjugated to concerns about convenience and preferences.

In the light of the need the County has for churches and because it is the Law of the Land, you should do all you can to avoid placing a substantial burden upon citizens who simply want the freedom to exercise their religious rights—which include the right to buy land and erect structures for worship.

Kindly distribute this letter to members of the Working Group.

Sincerely,



Bishop Darlington G. Johnson, D.Min.

Presiding Prelate, Bethel World Outreach Ministries, Int'l

# OPEN LETTER TO MONTGOMERY COUNTY COUNCIL

March 2005

Dear County Council members:

As faith community leaders in Montgomery County, we are writing to express our strong support for the proposed zoning text amendment to limit the paving of land in the Agricultural Reserve and rural zone areas.

The need for this amendment has arisen because of a growing tendency by private groups to seek large parcels in the reserve for expansion. We certainly understand the need of religious institutions to enlarge their facilities or start new congregations. But we also believe Biblical principles and the need to nurture Creation call us to protect this important wildlife habitat and open space resource. Some of the county's most pristine streams are in the Agricultural Reserve. Can we risk damaging these watersheds? There is very little money available to repair other county streams hurt by excessive paving in the time when there were few controls on development. The biological diversity of life in the Agricultural Reserve area is a blessing that should be cherished; the area's low density and traffic also contributes to the region's air quality.

The proposed amendment, which will limit impervious surfaces for private institutions to 15 percent of a property in the Agricultural Reserve and 20 percent in the Rural Zone, is a good compromise with the need for institutional expansion. Studies show that streams begin to show decline in ecological quality after eight percent of a stream valley is covered by concrete or asphalt/roofing. For development that will take place in these sensitive agricultural and rural areas, we endorse the use of creative landscaping and green building techniques to limit its effect on the environment.

Thank you for your consideration, and efforts to protect the county's people, wildlife, water and land.

Sincerely,

Rabbi Warren Stone (former president, Washington Board of Rabbis) Temple Emanuel,  
Kensington

Rev. Scott Winnette, Bradley Hills Presbyterian Church, Bethesda

Brian McLaren, founding pastor and senior minister, Cedar Ridge Community Church,  
Spencerville

Rabbi David Shneyer, Am Kolel Community, Rockville

Dayspring Church, Germantown

Environmental Task Force, Cedar Lane Unitarian Church, Bethesda

Environmental Task Force, River Road Unitarian Church, Bethesda

Rabbi Fred Dobb, Adat Shalom Reconstructionist Congregation, Bethesda

Rev. Laura Collins, Takoma Park

Rabbi Howard Gorin, Tikvat Israel Congregation, Rockville

***\*\* Note: Institutional affiliations listed for identification purposes only***

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## **ADDITIONAL STATEMENT BY PASTOR MCLAREN**

When we began the process of buying land and building our current facility (back in 1995), we faced very strict regulations both in terms of historic preservation and the environment. In particular, we had 10-12% imperviousness restrictions and tough storm water management regulations: there's no question that they were costly and limiting, and I'd be dishonest if I didn't say we complained a bit. But looking back, we feel great satisfaction that what we've done here on this 63-acre property is beautiful and harmonious with the setting. As committed Christians, we believe the earth is the Lord's, and we feel it has been an act of worship and faithfulness to seek to respect the ecosystems we are part of. In the short run, it can be costly and require greater creativity in how to meet space needs within limits, but when you think over one hundred years, or two hundred years, someday people will be grateful to all of us who sought to preserve whatever corners of wildness are left in our region.

April 14, 2005

Mr. Keith Levchenko  
Legislative Analyst  
100 Maryland Avenue, 5<sup>th</sup> Floor  
Rockville, MD 20850

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Kindly distribute this letter to members of the Working Group.

Sincerely,

Bishop Darlington G. Johnson, D.Min.  
Presiding Prelate, Bethel World Outreach Ministries, Int'l

Levchenko, Keith

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**From:** Steve Dryden [jsdryden@comcast.net]  
**Sent:** Wednesday, March 30, 2005 6:20 AM  
**To:** Levchenko, Keith  
**Subject:** ZTA issue /film resource

Keith: Here's some info on a brand new film (I saw it -- very well done) on institutional stormwater management. Perhaps too long for the 13th but a resource the task force should look at. Dave Eckert lives in Falls Church and could probably present it. Larry Coffman, as you know, was PG's man on this issue; he's now an independent consultant.

Steve

## Reining in the Storm – One Building at a Time

*Reining in the Storm – One Building at a Time* is the fourth in a series of documentary films by Dave Eckert about landowner and government opportunities to recreate healthy water supplies and healthy communities. This 30-minute film presents the five steps involved in creating clean water through **Low Impact Development (LID)** techniques to reduce stormwater runoff and increase developer profits:

- (1) Conservation of sensitive lands
- (2) Minimization of pavement and building footprints
- (3) Disconnection of Stormwater flow from underground stormwater systems
- (4) Infiltration of rainwater into groundwater through rain gardens and bioretention filters
- (5) Education for maintenance and enforcement.

The film is narrated by NPR's Frank Stasio and hosted by LID pioneers Larry Coffman and Earl Shaver. This short film includes appearances by 20 Low Impact Development experts and shows in-ground LID examples and how they function. Everyone from someone owning a tiny townhouse to someone redesigning a home to large-scale developers to government regulators will find specific examples in this film to help them resolve stormwater related issues while improving everyone's water quality.

*Reining* was partially funded through a grant from the U.S. E.P.A.'s Chesapeake Bay Program and through the State of Virginia's Department of Conservation and Recreation.

For further information, contact Dave Eckert at [deckert@tinnerhill.org](mailto:deckert@tinnerhill.org).

*Dave Eckert*